

EXHIBIT E

1 IN THE COURT OF COMMON PLEAS
2 OF PHILADELPHIA COUNTY, PENNSYLVANIA
3 TRIAL DIVISION - CIVIL
4 IN RE: PELVIC MESH LITIGATION

5 PATRICIA L. HAMMONS, : MAY TERM, 2013
6 Plaintiff :
7 :
8 :
9 :
10 vs. :
11 :
12 ETHICON, INC. et al., :
13 Defendants : NO. 003913

14 - - -

15 Friday, November 13, 2015

16 - - -

17 Videotaped deposition of
18 JULIE DROLET, M.D. taken at the Courtyard
19 by Marriott, 2799 Concord Road, York,
20 Pennsylvania, on the above date,
21 commencing at 9:54 a.m. before Lauren A.
22 Moore, Registered Merit Reporter and
23 Certified Realtime Reporter and Angelo
24 Del Monte, Videographer.

25 GOLKOW TECHNOLOGIES, INC.
26 877.370.3377 ph|917.591.5672 fax
27 deps@golkow.com

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<p>1 APPEARANCES:</p> <p>2 KLINE & SPECTER</p> <p>3 By: KILA B. BALDWIN, ESQUIRE</p> <p>4 LISA DAGOSTINO, M.D., J.D.</p> <p>5 1525 Locust Street, 19th Floor</p> <p>6 Philadelphia, PA 19102</p> <p>7 215-772-1000</p> <p>8 kila.baldwin@klinespecter.com</p> <p>9 lisa.dagostino@klinespecter.com</p> <p>10 -- For the Plaintiff</p> <p>11 TUCKER ELLIS, LLP</p> <p>12 By: MATTHEW P. MORIARTY, ESQUIRE</p> <p>13 950 Main Avenue, Suite 1100</p> <p>14 Cleveland, OH 44113-7213</p> <p>15 216-696-2276</p> <p>16 matthew.moriarty@tuckerellis.com</p> <p>17 -- For the Defendants</p> <p>18 ALSO PRESENT:</p> <p>19 Angelo Del Monte, Videographer</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24 GOLKOW TECHNOLOGIES, INC. - 877.370.3377</p>	<p>1</p> <p>2 INDEX TO EXHIBITS</p> <p>3 PAGE</p> <p>4 EXHIBIT DESCRIPTION MARKED</p> <p>5 Drolet-9 3/1/11 E-mail</p> <p>6 Bates Stamp</p> <p>7 ETH.MESH.08382746 80</p> <p>8 Drolet-10 Julie Drolet - Medical</p> <p>9 Literature 111</p> <p>10 Drolet-11 8/10/15 Expert Report of</p> <p>11 Julie Drolet, M.D. 221</p> <p>12</p> <p>13 Drolet-12 Gynecare Prolift Pelvic Floor</p> <p>14 Repair System</p> <p>15 Surgical Technique</p> <p>16 Bates Stamp ETH.MESH.00419571</p> <p>17 through ETH.MESH.00419600 259</p> <p>18</p> <p>19 Drolet-13 Gynecare Prolift</p> <p>20 Surgeon's Resource Monograph</p> <p>21 Bates Stamp DX10140.1</p> <p>22 through DX10140.39 261</p> <p>23 Drolet-14 6/10/09 Progress Notes</p> <p>24 Heartland OB/GYN 288</p> <p>Drolet-15 9/8/15 Exam Notes Women's</p> <p>Institute for Gynecology &</p> <p>Minimally Invasive</p> <p>Surgery, LLC 304</p> <p>Drolet-16 Diagram 305</p> <p>Drolet-17 Addendum to Expert Report</p> <p>Following IME of</p> <p>Mrs. Hammons 328</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>
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<p style="text-align: right;">Page 6</p> <p>1 (It is stipulated by and 2 between counsel for the respective 3 parties that all objections except 4 as to the form of the question are 5 reserved until the time of trial.)</p> <p>6</p> <p>7 THE VIDEOGRAPHER: We are 8 now on the record. My name is 9 Angelo Del Monte. I am the 10 videographer for Golkow 11 Technologies. Today's date is 12 November 13th, 2015. The time on 13 the camera now reads 9:54 a.m.</p> <p>14 This video deposition is 15 being held in York, Pennsylvania 16 in the matter of Patricia L. 17 Hammons versus Ethicon Women's 18 Health and Urology et al., for the 19 Philadelphia County Court of 20 Common Pleas, trial division, 21 civil.</p> <p>22 The deponent is Julie 23 Drolet, M.D. Counsel will be 24 noted on the stenographer's</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. In what context? 2 A. Medical malpractice lawsuit. 3 Q. Okay. Were you a party to 4 those lawsuits? 5 A. I was. 6 Q. In both instances? 7 A. Yes, I was. 8 Q. Okay. Were you a defendant? 9 A. Yes, I was. 10 Q. Can you tell me what the 11 circumstances were surrounding each of 12 those cases? 13 A. The first case occurred in 14 January of 1998. It was a VBAC case in 15 which I had left specific instructions to 16 call me at a particular time. The nurses 17 and the residents did not, actually told 18 the patient that doctors don't know 19 everything. The uterus ended up 20 rupturing and the baby died. 21 Q. Was any money paid on your 22 behalf in that lawsuit? 23 A. No. 24 Q. Okay. And what was the</p>
<p style="text-align: right;">Page 7</p> <p>1 record. The court reporter is 2 Lauren Moore, and she will now 3 swear in the witness, after which 4 you may proceed. 5 * * *</p> <p>6 JULIE DROLET, M.D., after 7 having been duly sworn or 8 affirmed, was examined and 9 testified as follows: 10 * * *</p> <p>11 EXAMINATION 12 BY MS. BALDWIN: 13 Q. Good morning, Dr. Drolet. 14 A. Good morning. 15 Q. My name is Kila Baldwin. 16 I'm the attorney for Patricia Hammons. 17 We're here today to take your deposition 18 in this case. Do you understand that? 19 A. Yes. 20 Q. Have you had your deposition 21 taken before? 22 A. Yes. 23 Q. How many times? 24 A. Twice.</p>	<p style="text-align: right;">Page 9</p> <p>1 second case? 2 A. The second case occurred in 3 January of 2000 was a bladed trocar 4 injury, great vessel injury and colon. 5 The outcome was excellent. The patient 6 left the hospital within five days with 7 only five transfusions. The hospital and 8 residents settled. I went to court, and 9 the jury returned a favorable verdict for 10 me. 11 Q. It was a defense verdict? 12 A. It was a defense verdict, 13 yes. 14 Q. Okay. Do you know the name 15 of the patient or the party who sued you 16 in that litigation? 17 A. Cassandra Liggins. 18 Q. Spell the last name. 19 A. L-I-G-G-I-N-S. But she 20 might have gotten married before or 21 after. It was Logan and then Liggins or 22 Liggins versus Logan. I can't remember 23 exactly. 24 Q. And what court was that in</p>

<p style="text-align: right;">Page 10</p> <p>1 where you went to court?</p> <p>2 A. That was at York.</p> <p>3 Q. Okay. The courthouse in</p> <p>4 York?</p> <p>5 A. The courthouse -- the old</p> <p>6 courthouse in York. And the case was</p> <p>7 tried in 2004, I think, but I'm not quite</p> <p>8 sure.</p> <p>9 Q. Thank you for that</p> <p>10 information.</p> <p>11 Going back to your</p> <p>12 deposition experience, have you ever</p> <p>13 given a deposition as an expert before?</p> <p>14 A. Never.</p> <p>15 Q. Okay. Did you testify in</p> <p>16 court in both of those two lawsuits that</p> <p>17 we discussed?</p> <p>18 A. I never went to court on the</p> <p>19 first one. The hospital and the</p> <p>20 residents settled, and I was dropped.</p> <p>21 Q. Okay. So in the second one</p> <p>22 involving the bladed trocar injury, did</p> <p>23 you testify in both deposition and court?</p> <p>24 A. Yes, I did.</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. If you need a break at any</p> <p>2 time, please let us know. It will just</p> <p>3 take a minute to shut off the video.</p> <p>4 That's fine, too. I just ask that you</p> <p>5 answer any pending questions that are on</p> <p>6 the floor before we go to break. Okay?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. I don't want you to</p> <p>9 guess at any questions, so if you don't</p> <p>10 know, I don't know is a perfectly</p> <p>11 acceptable answer. Do you understand</p> <p>12 that?</p> <p>13 A. Yes.</p> <p>14 Q. And do you understand that</p> <p>15 you took an oath and it's the same oath</p> <p>16 to tell the truth as if we were in a</p> <p>17 court of law here today?</p> <p>18 A. Yes, I do.</p> <p>19 Q. Okay. And the other thing</p> <p>20 that's not always good for the court</p> <p>21 reporter's sake is please give clear yes</p> <p>22 or noes. Once we get a little tired we</p> <p>23 start to do uh-huhs or head nods or</p> <p>24 gesturing sometimes, and the court</p>
<p style="text-align: right;">Page 11</p> <p>1 Q. Okay. Have you ever given</p> <p>2 testimony in court as an expert witness</p> <p>3 before?</p> <p>4 A. No, I have not.</p> <p>5 Q. Okay. Just so we're on the</p> <p>6 same page as far as depositions go, I'd</p> <p>7 like to go through some ground rules.</p> <p>8 A. Yes.</p> <p>9 Q. Obviously, there's a court</p> <p>10 reporter here who's taking everything</p> <p>11 down. I tend admittedly to start get</p> <p>12 going very fast. Please let me finish my</p> <p>13 question before you give your answer, and</p> <p>14 I'll wait for you to finish your answer</p> <p>15 before I ask the next question, but that</p> <p>16 makes it easier for the court reporter.</p> <p>17 Okay?</p> <p>18 A. Yes.</p> <p>19 Q. If we're reading a document,</p> <p>20 and I'm saying this more as a reminder to</p> <p>21 myself, make sure you read slowly for the</p> <p>22 ease of the court reporter's fingers.</p> <p>23 Okay? She's got to type it all down.</p> <p>24 A. All right.</p>	<p style="text-align: right;">Page 13</p> <p>1 reporter can't get that down on the</p> <p>2 stenographic record. So just be sure you</p> <p>3 give clear verbal answers that she can</p> <p>4 type down. Okay?</p> <p>5 A. I will try.</p> <p>6 Q. All right. Thank you.</p> <p>7 Doctor, have you ever done</p> <p>8 any work as an expert witness aside from</p> <p>9 the work done in connection with the</p> <p>10 Hammons case?</p> <p>11 A. No, I have not.</p> <p>12 Q. Okay. Have you ever been</p> <p>13 asked by anyone to review cases as an</p> <p>14 expert outside of the context of the</p> <p>15 Hammons case?</p> <p>16 A. Yes, I have.</p> <p>17 Q. How many times?</p> <p>18 A. Twice.</p> <p>19 Q. And did you decline to</p> <p>20 review those cases?</p> <p>21 A. No, I did not.</p> <p>22 Q. Okay. No, you did not</p> <p>23 decline to review them?</p> <p>24 A. That would be correct.</p>

<p style="text-align: right;">Page 14</p> <p>1 Q. Okay. Did you review them?</p> <p>2 A. Yes, I did.</p> <p>3 Q. Okay. So you have been</p> <p>4 retained as an expert at least twice</p> <p>5 outside of the context of Hammons?</p> <p>6 A. I guess I have, yes.</p> <p>7 Q. Okay. All right. And can</p> <p>8 you tell me -- sorry. It gets a little</p> <p>9 confusing.</p> <p>10 A. Yeah. Not -- it never went</p> <p>11 to deposition. I was just asked to</p> <p>12 review charts.</p> <p>13 Q. Okay. What types of cases</p> <p>14 were those?</p> <p>15 A. One was a surgical injury,</p> <p>16 and the other one was a postpartum</p> <p>17 stroke.</p> <p>18 Q. When you say surgical</p> <p>19 injury, what type of surgery?</p> <p>20 A. It was robotic.</p> <p>21 Q. And what was the type of</p> <p>22 injury?</p> <p>23 A. Bowel injury.</p> <p>24 Q. And what type of robotic</p>	<p style="text-align: right;">Page 16</p> <p>1 law firm that retained you?</p> <p>2 A. I can't recall.</p> <p>3 Q. And the second case, it</p> <p>4 involved a postpartum stroke?</p> <p>5 A. Yes.</p> <p>6 Q. Did you review the charts in</p> <p>7 that case?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And did you have to</p> <p>10 write an expert report in that case?</p> <p>11 A. No, I did not.</p> <p>12 Q. And why is that?</p> <p>13 A. Because they -- I think it</p> <p>14 was to get a certificate of merit, so all</p> <p>15 I had to do is to review the chart and</p> <p>16 give my impressions to the attorney.</p> <p>17 Q. Again, were you retained on</p> <p>18 behalf of the defense attorney in that</p> <p>19 case?</p> <p>20 A. No. I think that would be</p> <p>21 plaintiff.</p> <p>22 Q. Okay. Do you know if a</p> <p>23 complaint was ever filed?</p> <p>24 A. No, I do not.</p>
<p style="text-align: right;">Page 15</p> <p>1 surgery?</p> <p>2 A. It was a laparoscopic</p> <p>3 oophorectomy, and I can't remember</p> <p>4 which -- which side.</p> <p>5 Q. Okay. And am I correct that</p> <p>6 your role in that case was just to review</p> <p>7 the medical charts?</p> <p>8 A. And admit an opinion.</p> <p>9 Q. Did you do that in written</p> <p>10 form?</p> <p>11 A. Yes, I did.</p> <p>12 Q. And what was the name of the</p> <p>13 case?</p> <p>14 A. I can't recall.</p> <p>15 Q. Okay. Do you still have a</p> <p>16 copy of that report?</p> <p>17 A. I'm not sure.</p> <p>18 Q. How long ago was that?</p> <p>19 A. About nine months ago.</p> <p>20 Q. Okay. And were you retained</p> <p>21 to work on behalf of the plaintiff or the</p> <p>22 defendant?</p> <p>23 A. The defendant.</p> <p>24 Q. And what was the name of the</p>	<p style="text-align: right;">Page 17</p> <p>1 Q. You don't know?</p> <p>2 A. I don't know.</p> <p>3 Q. How long ago was that?</p> <p>4 A. About a month ago.</p> <p>5 Q. And what's the name of the</p> <p>6 firm who hired you?</p> <p>7 MR. MORIARTY: Objection.</p> <p>8 I'm going to instruct/advise her</p> <p>9 not to answer just because we</p> <p>10 don't know -- I mean, it might be</p> <p>11 as a consulting expert not</p> <p>12 revealed and so it may not be</p> <p>13 discoverable in that case, and I</p> <p>14 don't want it to -- we just need</p> <p>15 to protect the record on that.</p> <p>16 BY MS. BALDWIN:</p> <p>17 Q. Do you know if you were</p> <p>18 hired simply as a consulting expert?</p> <p>19 A. I may have. I'm not quite</p> <p>20 sure that -- of those legal definitions.</p> <p>21 Q. Did they tell you that</p> <p>22 they'd like you to author an expert</p> <p>23 report in the case eventually?</p> <p>24 A. No, they did not.</p>

<p style="text-align: right;">Page 18</p> <p>1 Q. Do you know the name of the</p> <p>2 person who's bringing suit?</p> <p>3 MR. MORIARTY: Well,</p> <p>4 objection. I advise you not to</p> <p>5 answer that because that's getting</p> <p>6 at the same information.</p> <p>7 Q. Where did the alleged</p> <p>8 malpractice take place?</p> <p>9 A. In a hospital in Harrisburg.</p> <p>10 Q. Which hospital?</p> <p>11 A. One of the Pinnacle Health</p> <p>12 Systems Hospital.</p> <p>13 Q. How much did you charge to</p> <p>14 review charts in that matter?</p> <p>15 A. \$250 an hour.</p> <p>16 Q. And if we look at the first</p> <p>17 case that you reviewed involving the</p> <p>18 robotic surgery that was about nine</p> <p>19 months ago, how much did you charge per</p> <p>20 hour?</p> <p>21 A. I think it was 350.</p> <p>22 Q. Why the difference?</p> <p>23 A. Because in the second case I</p> <p>24 was not asked to produce a report. I was</p>	<p style="text-align: right;">Page 20</p> <p>1 Q. Okay.</p> <p>2 A. Up 'til October 31st, 2015.</p> <p>3 Q. Okay. And if we go to the</p> <p>4 very -- first one is August 17th, 2015,</p> <p>5 and on there it looks like you were</p> <p>6 billing at a rate of \$450 an hour. Is</p> <p>7 that correct?</p> <p>8 A. That is correct.</p> <p>9 Q. So that's \$100 an hour</p> <p>10 higher than the rate you charged in the</p> <p>11 robotic injury case?</p> <p>12 A. That would be correct.</p> <p>13 Q. And that's \$200 an hour more</p> <p>14 than you charged in the case that you</p> <p>15 reviewed for the postpartum stroke only a</p> <p>16 month ago?</p> <p>17 A. That would be correct.</p> <p>18 Q. Okay. And it looks like,</p> <p>19 according to this invoice, between April</p> <p>20 1st, 2015 and August 13th, 2015 you spent</p> <p>21 82.5 hours working on this matter?</p> <p>22 A. That would be correct.</p> <p>23 Q. And that included two</p> <p>24 appointments in your office?</p>
<p style="text-align: right;">Page 19</p> <p>1 asked to review charts.</p> <p>2 Q. But in the first case you</p> <p>3 charged 350 for your review of the</p> <p>4 charts?</p> <p>5 A. And the report.</p> <p>6 Q. Okay. So it was 350 an hour</p> <p>7 for the work there, 250 in the second</p> <p>8 one?</p> <p>9 A. That is correct.</p> <p>10 Q. Okay. And just looking at</p> <p>11 the invoices you produced in this case, I</p> <p>12 guess we'll go ahead and mark these</p> <p>13 collectively as Drolet-1.</p> <p>14 (Whereupon, a document was</p> <p>15 marked for identification as</p> <p>16 Drolet Exhibit No. 1.)</p> <p>17 BY MS. BALDWIN:</p> <p>18 Q. I'll pass those in front of</p> <p>19 you. Doctor, your counsel provided me</p> <p>20 with those when we came in.</p> <p>21 Are those a copy of your</p> <p>22 invoices for work performed in connection</p> <p>23 with the Hammons litigation?</p> <p>24 A. So far, yes.</p>	<p style="text-align: right;">Page 21</p> <p>1 A. Yes.</p> <p>2 Q. Okay. What were those two</p> <p>3 appointments?</p> <p>4 A. Those were appointments with</p> <p>5 Attorney Paul Rosenblatt and Burt Snell.</p> <p>6 Q. And, Doctor, have you ever</p> <p>7 other -- outside of the context of this</p> <p>8 litigation done a defense medical exam?</p> <p>9 A. No, I have not.</p> <p>10 Q. Have you ever done what's</p> <p>11 called an independent medical exam?</p> <p>12 A. This was my first one.</p> <p>13 Q. Okay. And so in this first</p> <p>14 invoice, it looks like you requested</p> <p>15 payment in the amount of \$37,125?</p> <p>16 A. That's what is on the paper,</p> <p>17 yes.</p> <p>18 Q. And have you been paid that</p> <p>19 amount?</p> <p>20 A. Yes, I have.</p> <p>21 Q. Okay. And then if we go to</p> <p>22 the next invoice, it's dated October 5th,</p> <p>23 2015, and here it says between August</p> <p>24 14th and September 30th of this year you</p>

<p style="text-align: right;">Page 22</p> <p>1 spent an additional 28.4 hours at the</p> <p>2 agreed rate of \$450 an hour. Is that</p> <p>3 correct?</p> <p>4 A. That is correct.</p> <p>5 Q. So you were requesting</p> <p>6 payment in the amount that time of</p> <p>7 \$12,780. Is that correct?</p> <p>8 A. That would be correct.</p> <p>9 Q. Have you been paid that</p> <p>10 amount?</p> <p>11 A. I think so.</p> <p>12 Q. Okay. And going to the</p> <p>13 third invoice dated November 2nd, 2015,</p> <p>14 it's a letter to Mr. Rosenblatt that</p> <p>15 between October 1st and October 31st of</p> <p>16 this year you spent an additional 64</p> <p>17 hours on this case at 450 an hour</p> <p>18 requesting payment in the amount of</p> <p>19 \$28,800. Is that correct?</p> <p>20 A. That is correct.</p> <p>21 Q. And you may not -- have you</p> <p>22 been paid yet?</p> <p>23 A. No, I have not.</p> <p>24 Q. Has any argument been</p>	<p style="text-align: right;">Page 24</p> <p>1 (Whereupon, a document was</p> <p>2 marked for identification as</p> <p>3 Drolet Exhibit No. 2.)</p> <p>4 BY MS. BALDWIN:</p> <p>5 Q. I'll mark as Drolet-2 a copy</p> <p>6 of your CV. I'll go ahead and staple it</p> <p>7 so we don't lose any pieces. Here we go,</p> <p>8 Doctor.</p> <p>9 And, Doctor, that was given</p> <p>10 to me by your counsel this morning. Is</p> <p>11 it your understanding this is an updated</p> <p>12 copy of your CV?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And I'd like to</p> <p>15 start, I guess, on the second page with</p> <p>16 your education.</p> <p>17 A. Yes.</p> <p>18 Q. I see that you went to the</p> <p>19 University of Montreal?</p> <p>20 A. Yes.</p> <p>21 Q. Are you a Canadian citizen?</p> <p>22 A. Yes, I am.</p> <p>23 Q. Okay. Do you have a U.S.</p> <p>24 citizenship?</p>
<p style="text-align: right;">Page 23</p> <p>1 raised -- do you have any understanding</p> <p>2 that they don't intend to pay that</p> <p>3 amount?</p> <p>4 A. No, I have -- I don't have</p> <p>5 any reason to doubt that they would.</p> <p>6 Q. Right. And just looking at</p> <p>7 these, all of the --</p> <p>8 A. I wouldn't.</p> <p>9 Q. Right. All of them ask to</p> <p>10 make the check payable to Women's</p> <p>11 Institute for Gynecology. What is that?</p> <p>12 A. That is my office.</p> <p>13 Q. Okay. Is that the name of</p> <p>14 your medical practice?</p> <p>15 A. No. It's actually Women's</p> <p>16 Institute for Gynecology & Minimally</p> <p>17 Invasive Surgery.</p> <p>18 Q. So is the Women's Institute</p> <p>19 for Gynecology that we have here</p> <p>20 something different than your medical</p> <p>21 practice?</p> <p>22 A. No. It's just shorter on</p> <p>23 the check.</p> <p>24 Q. Okay. Understood.</p>	<p style="text-align: right;">Page 25</p> <p>1 A. No, I do not.</p> <p>2 Q. What year did you graduate</p> <p>3 from the University of Montreal?</p> <p>4 A. Which one? Residency,</p> <p>5 medical school or...?</p> <p>6 Q. I'm sorry. I was looking,</p> <p>7 and I didn't even notice. Where did you</p> <p>8 get your undergraduate education?</p> <p>9 A. At University of Montreal.</p> <p>10 Q. Okay. What year did you</p> <p>11 graduate?</p> <p>12 A. 1983.</p> <p>13 Q. Okay. What year did you</p> <p>14 start?</p> <p>15 A. 1982. It's different in</p> <p>16 Canada.</p> <p>17 Q. I was going to ask, can you</p> <p>18 explain that difference for me?</p> <p>19 A. After high school there is</p> <p>20 a -- what you would consider the</p> <p>21 undergrad here called CEGEP, C-E-G-E-P.</p> <p>22 And in order to get into medical school</p> <p>23 there are three pathways.</p> <p>24 You can do two years of</p>

<p style="text-align: right;">Page 26</p> <p>1 CEGEP and then get admitted to medical 2 school. Then there's two years of CEGEP, 3 one year in university and then you can 4 get admitted into medical school. The 5 third pathway is that you do your two 6 years of CEGEP. Then you do your three 7 years of university completed undergrad 8 and then you can get admitted to medical 9 school.</p> <p>10 The amount -- the spots are 11 very limited for graduate right out of 12 CEGEP or CEGEP plus one year compared to 13 the spots available for everybody else 14 who has a complete undergrad. So I did 15 two years of CEGEP, one year in biology 16 called minor and then I went to medical 17 school.</p> <p>18 Q. Understood. And you got 19 your medical degree from University of 20 Montreal as well?</p> <p>21 A. Yes, I did.</p> <p>22 Q. And is that an M.D. degree?</p> <p>23 A. It is.</p> <p>24 Q. Okay. And you graduated</p>	<p style="text-align: right;">Page 28</p> <p>1 Q. Your French pronunciation is 2 probably better than everyone in the 3 room.</p> <p>4 Am I correct that that was a 5 residency in obstetrics and gynecology?</p> <p>6 A. Yes, it was.</p> <p>7 Q. Okay. And then following 8 that you did a fellowship?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Did you immediately 11 go from your residency to your 12 fellowship?</p> <p>13 A. Yes, I did.</p> <p>14 Q. And what was your fellowship 15 in?</p> <p>16 A. Minimally invasive surgery, 17 laparoscopic and hysteroscopic.</p> <p>18 Q. Okay. And just in layman's 19 terms, tell me what that means?</p> <p>20 A. It is to operate using 21 minimally invasive techniques, and at the 22 time laparoscopic surgery was 23 revolutionizing cancer, gynecological 24 cancer in women, the way hysterectomies</p>
<p style="text-align: right;">Page 27</p> <p>1 from there in 1988?</p> <p>2 A. That is correct.</p> <p>3 Q. Okay. And did you go on and 4 do a residency?</p> <p>5 A. Yes, I did.</p> <p>6 Q. And where did you do your 7 residency?</p> <p>8 A. At University of Montreal.</p> <p>9 Contrary to in the United States, there's 10 not just one hospital affiliated. We 11 rotate through five hospitals in the 12 French system.</p> <p>13 Q. Okay. And which hospitals 14 did you rotate through?</p> <p>15 A. I rotated through Sainte 16 Justine Hospital, Notre-Dame Hospital, 17 Saint Luc Hospital, De L'Hotel Dieu. 18 Maisonneuve-Rosemont was the first one.</p> <p>19 Q. You may have to spell that 20 for the court reporter.</p> <p>21 A. Shall I write it down?</p> <p>22 Q. Yeah. We can do that at a 23 break then.</p> <p>24 A. Okay.</p>	<p style="text-align: right;">Page 29</p> <p>1 were performed and pelvic floor surgeries 2 were performed.</p> <p>3 Q. Okay. So the focus there 4 was all laparoscopic surgeries, not open 5 procedures?</p> <p>6 A. Correct.</p> <p>7 Q. Did you do any open 8 procedures in your fellowship?</p> <p>9 A. Two.</p> <p>10 Q. Okay. And which two did you 11 do?</p> <p>12 A. One was a hysterectomy for a 13 22-week size uterus, and the other one 14 was for endometrial cancer in a woman 15 whose uterus was too large to pass 16 through the vaginal canal and thus there 17 would have been risk of contamination.</p> <p>18 Q. Okay. Did you do any mesh 19 procedures in your fellowship?</p> <p>20 A. Yes.</p> <p>21 Q. Which types?</p> <p>22 A. Sacrocolpopexies and 23 hysteropexies. They called them 24 promontofixation.</p>

<p style="text-align: right;">Page 30</p> <p>1 Q. I'm sorry. I got</p> <p>2 sacrocolpopexy. And what was the second</p> <p>3 one?</p> <p>4 A. Hysteropexy.</p> <p>5 Q. Okay.</p> <p>6 A. H-Y-S-T --</p> <p>7 Q. Got it.</p> <p>8 A. She might need it.</p> <p>9 Q. Doctor, when you began</p> <p>10 treating in the United States did you</p> <p>11 have to repeat a residency here?</p> <p>12 A. No, I did not.</p> <p>13 Q. Okay. You were qualified by</p> <p>14 virtue of your training in Canada?</p> <p>15 A. Yes, and I had passed my</p> <p>16 American Board certification as well.</p> <p>17 Q. When did you take your</p> <p>18 American Board certification?</p> <p>19 A. I took my written exam in</p> <p>20 June of 1994 and my oral exam in November</p> <p>21 of 1996.</p> <p>22 Q. And when did you start</p> <p>23 practicing in the United States?</p> <p>24 A. Officially, August 18th of</p>	<p style="text-align: right;">Page 32</p> <p>1 interest in laparoscopic surgeries?</p> <p>2 A. And pelvic surgeries, yes.</p> <p>3 Q. Did you do any mesh</p> <p>4 surgeries in your residency?</p> <p>5 A. Yes.</p> <p>6 Q. Which types?</p> <p>7 A. Sacrocolpopexies, open,</p> <p>8 abdominal.</p> <p>9 Q. In your fellowship when you</p> <p>10 did sacrocolpopexies, were those done</p> <p>11 laparoscopically?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And the hyster --</p> <p>14 A. Hysteropexies?</p> <p>15 Q. Yes. Were those done</p> <p>16 laparoscopically?</p> <p>17 A. They were done</p> <p>18 laparoscopically.</p> <p>19 Q. And, I'm sorry, I just asked</p> <p>20 you, but I didn't make a note. What type</p> <p>21 of -- the mesh procedures that you did in</p> <p>22 your residency was sacrocolpopexies and</p> <p>23 that's it?</p> <p>24 A. Yes. Open.</p>
<p style="text-align: right;">Page 31</p> <p>1 1997.</p> <p>2 Q. Did you pass both your</p> <p>3 written and oral boards the first time?</p> <p>4 A. Yes.</p> <p>5 Q. And that Board</p> <p>6 certification, is that in obstetrics and</p> <p>7 gynecology?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And just for the</p> <p>10 record, where did you do your fellowship?</p> <p>11 A. In France in</p> <p>12 Clermont-Ferrand.</p> <p>13 Q. Is there a reason why you</p> <p>14 chose to go to France for your fellowship</p> <p>15 as opposed to stay in Canada?</p> <p>16 A. Yes. Clermont-Ferrand was</p> <p>17 known as the birthplace of advanced</p> <p>18 laparoscopic surgery. And in my</p> <p>19 residency we had started to do</p> <p>20 laparoscopic hysterectomies in 1991, and</p> <p>21 my professors had learned through going</p> <p>22 through conferences. I wanted to learn</p> <p>23 more and learn it from the best.</p> <p>24 Q. So you had a particular</p>	<p style="text-align: right;">Page 33</p> <p>1 Q. Following your fellowship in</p> <p>2 France, where did you go?</p> <p>3 A. I practiced at Notre-Dame</p> <p>4 Hospital in Montreal.</p> <p>5 Q. And what type of practice</p> <p>6 were you in?</p> <p>7 A. This was general obstetrics</p> <p>8 and gynecology. Mostly minimally</p> <p>9 invasive, though.</p> <p>10 Q. Laparoscopic?</p> <p>11 A. Laparoscopic and</p> <p>12 hysteroscopic.</p> <p>13 Q. Were you in a private</p> <p>14 practice or were you an employee of the</p> <p>15 hospital?</p> <p>16 A. It's socialized medicine in</p> <p>17 Canada, so we're employed by the</p> <p>18 government.</p> <p>19 Q. Okay.</p> <p>20 A. I did have an agreement with</p> <p>21 the hospital, but everything else is</p> <p>22 controlled by the government.</p> <p>23 Q. Understood. When you were</p> <p>24 at Notre-Dame Hospital were you doing any</p>

<p style="text-align: right;">Page 34</p> <p>1 mesh surgeries?</p> <p>2 A. Laparoscopic</p> <p>3 sacrocolpopexies and hysteropexies.</p> <p>4 Q. What years were you at</p> <p>5 Notre-Dame Hospital?</p> <p>6 A. From 1994 until August of</p> <p>7 2007 -- pardon me, August of 1997.</p> <p>8 Q. And what happened in August</p> <p>9 of 1997?</p> <p>10 A. I moved to York.</p> <p>11 Q. Okay. How is it you came to</p> <p>12 York, Pennsylvania?</p> <p>13 A. Through a recruiter.</p> <p>14 Through a recruiting company.</p> <p>15 Q. Were you looking to come to</p> <p>16 the United States?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. Is there a reason why</p> <p>19 you wanted to leave Canada?</p> <p>20 A. At the time with the way</p> <p>21 socialized medicine was organized, I was</p> <p>22 only given one half day three times a</p> <p>23 month of surgical time in the OR. We</p> <p>24 were three obstetrician-gynecologists to</p>	<p style="text-align: right;">Page 36</p> <p>1 just won't allow me, I found that very</p> <p>2 difficult.</p> <p>3 Q. You just weren't getting</p> <p>4 enough time in the OR with your patients?</p> <p>5 A. Correct. And other -- there</p> <p>6 were other issues.</p> <p>7 Q. Okay. The recruiter brought</p> <p>8 you here to York, Pennsylvania. I</p> <p>9 believe that there was another physician</p> <p>10 in the practice when you came?</p> <p>11 A. Yes. His name was Dr. Henry</p> <p>12 Sagel.</p> <p>13 Q. And what was the name of the</p> <p>14 practice then?</p> <p>15 A. Memorial Gynecological and</p> <p>16 Obstetrical, P.C., something like that.</p> <p>17 Q. Okay. And were you made a</p> <p>18 partner in the practice when you came?</p> <p>19 A. No. I was an employee.</p> <p>20 Q. Okay. And what did the</p> <p>21 practice consist of when you came?</p> <p>22 A. General obstetrics and</p> <p>23 gynecology.</p> <p>24 Q. And you came in '97. Did I</p>
<p style="text-align: right;">Page 35</p> <p>1 deliver about 1500 patients a year in the</p> <p>2 last few months with no residents, no</p> <p>3 midwives. We were in-house.</p> <p>4 And the climate in the</p> <p>5 university teaching hospitals wasn't very</p> <p>6 good, so I wanted another experience and</p> <p>7 go somewhere where they would allow me to</p> <p>8 operate at full capacity. So I contacted</p> <p>9 a recruiter through one of our journals</p> <p>10 and ended up in York.</p> <p>11 Q. So am I correct then that</p> <p>12 you left the Canadian medical system in</p> <p>13 part because you weren't happy with the</p> <p>14 amount of operating time you were</p> <p>15 getting?</p> <p>16 A. Yeah, and my patients were</p> <p>17 getting canceled. And if I have a</p> <p>18 patient who is on a waiting list for a</p> <p>19 month for uterine cancer and the head</p> <p>20 nurse in the OR says, Dr. Drolet, you're</p> <p>21 not going to be done your cases by 3</p> <p>22 o'clock or 3:30, so I'm going to have you</p> <p>23 go up and cancel your last case and to</p> <p>24 tell that woman that, I'm sorry, the OR</p>	<p style="text-align: right;">Page 37</p> <p>1 get that right?</p> <p>2 A. Yes. I arrived August 10th</p> <p>3 in the country and officially started to</p> <p>4 work on the 18th.</p> <p>5 Q. Okay.</p> <p>6 A. '97.</p> <p>7 Q. And my understanding, I</p> <p>8 think it was in your report or your CV,</p> <p>9 perhaps, is that Dr. Sagel passed away</p> <p>10 after a year?</p> <p>11 A. Yeah. He died in a plane</p> <p>12 crash September 20th or 21st of 1998.</p> <p>13 Q. Okay. And then you took</p> <p>14 over the practice?</p> <p>15 A. Not really.</p> <p>16 Q. Okay. What happened?</p> <p>17 A. I continued to practice.</p> <p>18 The lawyers for the estate were the</p> <p>19 managing partners, and in July of 1998 on</p> <p>20 a Friday afternoon they closed down the</p> <p>21 practice.</p> <p>22 Q. Did they give you a reason</p> <p>23 for why they closed the practice?</p> <p>24 A. No. I -- they just closed</p>

<p style="text-align: right;">Page 38</p> <p>1 it. They arrived at my office at a 2 quarter to 4:00 and said take your 3 personal belongings. We're closing down 4 the practice. 5 Q. Okay. From the time you 6 worked at that practice up until it was 7 closed, can you give me a breakdown of 8 what your work was like, what percentage 9 obstetrical versus gynecological -- 10 gynecologic? 11 A. I think it might have been 12 50/50 at the time. I'm not quite sure. 13 I don't have any details. 14 Q. Okay. But, approximately, 15 50 percent obstetrical, 50 percent gyne 16 work? 17 A. In that first year when he 18 was still alive, yes. 19 Q. Okay. Did that change after 20 he passed away before the practice 21 closed? 22 A. I had more and more GYN 23 patients come to see me. 24 Q. Is there a reason for that</p>	<p style="text-align: right;">Page 40</p> <p>1 Q. Have you ever done a 2 urogynecology fellowship? 3 A. No, I have not. 4 Q. After the practice closed, 5 did you continue to practice medicine in 6 the United States? 7 A. Yes. 8 Q. And what practice did you go 9 to? 10 A. I rented the space next door 11 that night and formed Woman Care 12 Obstetrics and Gynecology, P.C., I think. 13 I don't know. 14 Q. Okay. And that name, Women 15 Care Obstetrics and Gynecology, is that 16 now the practice that's known as the 17 Women's Institute for Gynecology? 18 A. I had to close that one down 19 and... 20 Q. Okay. 21 A. But yes. 22 Q. Okay. So let's focus on 23 Women Care then. What years did the 24 Women Care practice exist?</p>
<p style="text-align: right;">Page 39</p> <p>1 that you know of? 2 A. I can't know for sure. I 3 have some idea. 4 Q. And what's that idea? 5 A. He was a 56-year-old 6 gentleman and I was a younger woman, and 7 with questions of sex, pain, female 8 issues, some women felt more comfortable 9 talking to a woman, but I can't be sure. 10 Q. So it's your understanding 11 just as a gynecologist that at times 12 women find it awkward to raise sexual or 13 pain issues with male physicians? 14 A. I wouldn't say that. I just 15 think, you know, there are some women who 16 are more comfortable with a woman. 17 Q. And that's my question. You 18 understand that some women may be more 19 comfortable with a female physician? 20 A. Yes. Yes. Sorry. Yes. 21 Q. That's okay. In that 22 context of sexual issues or pelvic 23 issues? 24 A. That's possible. Yes.</p>	<p style="text-align: right;">Page 41</p> <p>1 A. It's Woman Care. 2 Q. Woman Care. Sorry. 3 A. W-O-M-A-N. Sorry. Just for 4 the court reporter. 5 Q. Thank you. 6 A. I don't want to get my dates 7 wrong, but I think it was July 16th or 8 19th of 1999 up until some time in the 9 spring of -- or fall of 2008. 10 Q. The Woman Care practice, 11 were you the sole physician in that 12 practice? 13 A. Yes, I was. 14 Q. Was that an obstetrical and 15 gynecological practice? 16 A. Yes. 17 Q. Okay. What percentage split 18 was obstetrics versus gyne work? 19 A. It depends. 20 Q. On what? 21 A. What do you -- you calculate 22 hours or numbers of patients? 23 Q. Let's do percentages of your 24 time?</p>

<p style="text-align: right;">Page 42</p> <p>1 A. I would say probably 75 2 percent obstetrics in time because I was 3 solo practice and mostly at the hospital 4 for all those nighttime deliveries, but 5 patient-wise and patient load, I still 6 carried a full load of GYN surgeries, and 7 I operated approximately five 8 days -- five full days a month of GYN 9 surgery, five to six days a month of GYN 10 surgeries. 11 Q. So at least one day a week 12 you were doing gyne surgeries? 13 A. Yeah. 1.25. I had every 14 Tuesday morning. Actually, no. It was 15 more than that. So 1.5 days a week so 16 six days a month. 17 Q. What kind of surgeries did 18 you do in that practice for the treatment 19 of pelvic organ prolapse? 20 A. Cystocele repair, rectocele 21 repairs, vaginal hysterectomies with 22 uterosacral ligament suspension, 23 sacrospinous fixations, laparoscopic 24 sacrocolpopexies. I might have done a</p>	<p style="text-align: right;">Page 44</p> <p>1 while I was in that Woman Care practice. 2 Q. Right. 3 A. Okay. Can you repeat your 4 question? I'm sorry. 5 Q. Sure. What products were 6 you using? 7 A. For pelvic floor repair, 8 Gynemesh PS. I did Prolift. I am not 9 quite sure if I did Apogee or Perigee or 10 Avaulta. I'm not quite sure. 11 Q. The majority of mesh repairs 12 you were doing at that time were using 13 the Ethicon products? 14 A. Yes, they were. Oh, I also 15 did porcine dermis mesh Permacol and 16 Surgisis. I think that is it. Again, 17 we'd have to go back to the operative 18 reports to get a complete detailed list 19 for pelvic floor prolapse. 20 Q. Right. Understanding it's 21 for the treatment of stress urinary 22 incontinence, were you also doing 23 transvaginal tape procedures? 24 A. Transvaginal slings, yes.</p>
<p style="text-align: right;">Page 43</p> <p>1 couple of hysteropexies. Up until 2008 I 2 also did pelvic floor mesh, slings. I 3 did a few open sacrocolpopexies that I 4 can think of offhand. 5 Q. Okay. Just because your 6 initial part of that question was that 7 you did cystocele and rectocele. Are 8 there any surgeries that come to mind 9 other than the ones that you listed out 10 after that? 11 A. Vaginal hysterectomies, 12 apical vault prolapses, cystoscopies, 13 perineoplasties, enterocele repairs. I 14 would have to -- for a full list, I would 15 have to be able to pull all of these 16 operative reports from all of these 17 years. 18 Q. Sure. You said that you did 19 pelvic floor mesh and slings up until 20 2008. What products were you using? 21 A. Just to be clear, 'til 2008 22 in Woman Care. 23 Q. Okay. 24 A. That's what you asked me,</p>	<p style="text-align: right;">Page 45</p> <p>1 Q. Okay. Which products were 2 you using? 3 A. I used the Ethicon products, 4 the TVTs. I did some TVTOs. I did two 5 TVT Securs. The majority are now Colo -- 6 'til 2008 I think Coloplast which was 7 called -- they were -- I can't remember 8 what they were called before. 9 Q. Okay. In 2008 you had to 10 shut down that practice, the Woman Care 11 practice? 12 A. Right. 13 Q. Okay. Why did you have to 14 shut it down? 15 A. Because my ex-husband was 16 coming after my practice. 17 Q. What year were you divorced? 18 A. I can't remember when he 19 actually -- when the judge actually made 20 it official. 2008 or 2009. 21 Q. Okay. At that point did you 22 then open a new practice? 23 A. Yes. 24 Q. Okay. And which practice</p>

<p style="text-align: right;">Page 46</p> <p>1 was that?</p> <p>2 A. That would be the Women's</p> <p>3 Institute for Gynecology & Minimally</p> <p>4 Invasive Surgery.</p> <p>5 Q. And is that -- when you</p> <p>6 opened it, is that at the same location</p> <p>7 it's at now?</p> <p>8 A. Yes, it is.</p> <p>9 Q. And that's 1600 Sixth Avenue</p> <p>10 in York?</p> <p>11 A. That is.</p> <p>12 Q. Suite 117?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And are you the only</p> <p>15 physician in that practice?</p> <p>16 A. Yes, I am.</p> <p>17 Q. So from 2008 to the present</p> <p>18 time, you've been the only physician in</p> <p>19 that practice?</p> <p>20 A. No. I had another -- I</p> <p>21 recruited another physician I think</p> <p>22 around 2010, and she left September of</p> <p>23 2012. Her husband was transferred to</p> <p>24 Atlanta and -- in a position he couldn't</p>	<p style="text-align: right;">Page 48</p> <p>1 November 21st of 2008 at York Hospital.</p> <p>2 Q. Why did you stop practicing</p> <p>3 obstetrics?</p> <p>4 A. Because as a solo</p> <p>5 practitioner I was working 90 to 130</p> <p>6 hours a week, on call 24 hours a day,</p> <p>7 seven days a week the last nine months</p> <p>8 without one day off.</p> <p>9 Q. Too much work?</p> <p>10 A. At one point. I love to do</p> <p>11 gyne surgery, and I decided this was the</p> <p>12 time.</p> <p>13 Q. Okay. At the Women's</p> <p>14 Institute can you give me a breakdown of</p> <p>15 what your patients are?</p> <p>16 A. Well, the patients of the</p> <p>17 practice because I have two nurse</p> <p>18 practitioners --</p> <p>19 Q. Okay.</p> <p>20 A. -- with me, so they will see</p> <p>21 most of the annuals. I still have some</p> <p>22 diehard patients that just want to see</p> <p>23 me, but they will do -- one of them will</p> <p>24 do the preliminary workup of women who</p>
<p style="text-align: right;">Page 47</p> <p>1 refuse.</p> <p>2 Q. What was her name?</p> <p>3 A. Her name was Rama Rao,</p> <p>4 R-A-O.</p> <p>5 Q. The practice as it is now,</p> <p>6 the Women's Institute, if I say that,</p> <p>7 will you understand what we're talking</p> <p>8 about?</p> <p>9 A. Uh-huh.</p> <p>10 Q. The Women's Institute, can</p> <p>11 you break down the percentage of your</p> <p>12 time that's spent on -- you still</p> <p>13 practice obstetrics in that practice?</p> <p>14 A. No, I do not.</p> <p>15 Q. So when you re-opened the</p> <p>16 practice, you stopped doing obstetrics?</p> <p>17 A. I think it coincided with</p> <p>18 it, yes.</p> <p>19 Q. Okay. Do you ever remember</p> <p>20 doing any obstetrics at the Women's</p> <p>21 Institute?</p> <p>22 A. And that's -- it crossed</p> <p>23 over so I -- the last delivery from my</p> <p>24 practice in the United States was</p>	<p style="text-align: right;">Page 49</p> <p>1 are incontinent and then order the</p> <p>2 appropriate testing and then they will</p> <p>3 come to me. My nurse practitioners will</p> <p>4 see every woman for just about every GYN</p> <p>5 problem.</p> <p>6 Q. And what patients are you</p> <p>7 seeing?</p> <p>8 A. I am seeing the more complex</p> <p>9 cases, pelvic pain, prolapse, follow-ups</p> <p>10 of incontinence. I still do</p> <p>11 hysterectomies for bleeding or management</p> <p>12 of bleeding and/or endometriosis, pelvic</p> <p>13 pain.</p> <p>14 Q. Are you still doing</p> <p>15 surgeries?</p> <p>16 A. Oh, yes.</p> <p>17 Q. How many days a week?</p> <p>18 A. About two days a week.</p> <p>19 Q. Are you still doing mesh</p> <p>20 surgeries?</p> <p>21 A. Yes.</p> <p>22 Q. Which types are you doing</p> <p>23 now?</p> <p>24 A. Sacrocolpopexies and some</p>

<p style="text-align: right;">Page 50</p> <p>1 vaginal mesh and slings.</p> <p>2 Q. When you say you're doing</p> <p>3 some vaginal mesh, what type of vaginal</p> <p>4 mesh are you doing now?</p> <p>5 A. I use the Restorelle mesh.</p> <p>6 Q. Any others?</p> <p>7 A. For vaginal mesh for pelvic</p> <p>8 prolapse, this is the one that is</p> <p>9 available at our institution.</p> <p>10 Q. Do you know what year you</p> <p>11 stopped using the Prolift?</p> <p>12 A. Not exactly. Probably 2010,</p> <p>13 2011.</p> <p>14 Q. And why did you stop using</p> <p>15 it?</p> <p>16 A. I remember having many sales</p> <p>17 reps coming in for us to try different</p> <p>18 types of mesh. I -- the hospital was</p> <p>19 willing to try Restorelle, and we were</p> <p>20 already using their T-sling from</p> <p>21 Coloplast, so that's how I think it</p> <p>22 happened.</p> <p>23 Q. So it was a marketing</p> <p>24 decision?</p>	<p style="text-align: right;">Page 52</p> <p>1 Hospital?</p> <p>2 A. Yes, I have.</p> <p>3 Q. Okay. When was that?</p> <p>4 A. All throughout.</p> <p>5 Q. Okay. Why both hospitals?</p> <p>6 A. Because some patients have</p> <p>7 patient preference. Some patients have</p> <p>8 an insurance that is in-house, the South</p> <p>9 Central Preferred product, now Aetna, if</p> <p>10 you're a hospital employee, you have a</p> <p>11 higher co-pay if you go to another</p> <p>12 hospital. So depending on their</p> <p>13 insurance and patient preference, I would</p> <p>14 go to one or the other hospital.</p> <p>15 Q. Okay. When you say you</p> <p>16 tried at York Hospital with regards to</p> <p>17 the choice of what mesh products to use</p> <p>18 in the hospital, tell me what you mean by</p> <p>19 that?</p> <p>20 A. I remembered wanting to do</p> <p>21 prolapse surgery using mesh at York</p> <p>22 Hospital, and I had to send all of my</p> <p>23 case lists from Memorial Hospital over to</p> <p>24 York, WellSpan, and they wouldn't get the</p>
<p style="text-align: right;">Page 51</p> <p>1 A. I think between whoever was</p> <p>2 at the hospital and myself as well.</p> <p>3 Q. Okay. Did you work with the</p> <p>4 hospital to decide what products they</p> <p>5 would keep in stock, which mesh products</p> <p>6 they would keep in stock?</p> <p>7 A. Not at Memorial Hospital.</p> <p>8 Q. Did you do that at other</p> <p>9 hospitals?</p> <p>10 A. I tried.</p> <p>11 Q. Which hospitals?</p> <p>12 A. York Hospital or WellSpan</p> <p>13 now.</p> <p>14 Q. In your practice in its</p> <p>15 current form, Women's Institute, which</p> <p>16 hospitals are you doing surgeries in?</p> <p>17 A. Most of my surgeries at this</p> <p>18 time are done at Memorial Hospital.</p> <p>19 Q. Okay. And then when you</p> <p>20 were at Woman Care, which hospitals were</p> <p>21 you doing surgeries in?</p> <p>22 A. Mostly at Memorial Hospital.</p> <p>23 Q. Okay. Have you done some</p> <p>24 hospitals -- some surgeries at York</p>	<p style="text-align: right;">Page 53</p> <p>1 product for me at the time. Same thing</p> <p>2 with InterStim.</p> <p>3 Q. I'm sorry. Where?</p> <p>4 A. InterStim is a procedure we</p> <p>5 do for refractory urge incontinence.</p> <p>6 It's a neuro -- implantable</p> <p>7 neurostimulator in the sacrum, and for</p> <p>8 quite a few years they didn't want to get</p> <p>9 the product for me.</p> <p>10 Q. Okay. At a certain point</p> <p>11 did that change at York Hospital? Did</p> <p>12 they then begin getting the mesh products</p> <p>13 for you?</p> <p>14 A. For me, I don't know.</p> <p>15 Q. Okay.</p> <p>16 A. But for others, yes.</p> <p>17 Q. Okay. What do you mean you</p> <p>18 don't know if they started getting it for</p> <p>19 you?</p> <p>20 A. Well, I never got a</p> <p>21 response, an affirmative response, but I</p> <p>22 heard through the grapevine that other</p> <p>23 surgeons had been trained, WellSpan</p> <p>24 surgeons, to perform these surgeries, and</p>

<p style="text-align: right;">Page 54</p> <p>1 they were performing mesh surgeries. And</p> <p>2 if they weren't performing them at</p> <p>3 Memorial because they didn't have the</p> <p>4 privileges at Memorial, they were</p> <p>5 performing them at York, so that's how I</p> <p>6 found that out.</p> <p>7 Q. Are you licensed to practice</p> <p>8 medicine?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Where?</p> <p>11 A. Here in the United States</p> <p>12 and in Canada.</p> <p>13 Q. Okay. I just wanted to make</p> <p>14 sure. You're Board certified in what</p> <p>15 areas?</p> <p>16 A. General obstetrics and</p> <p>17 gynecology and female pelvic medicine and</p> <p>18 reconstructive surgeries.</p> <p>19 Q. The female pelvic medicine</p> <p>20 and reconstructive surgeries, am I</p> <p>21 correct you got that certification in</p> <p>22 2013?</p> <p>23 A. Yes. You are correct.</p> <p>24 Q. And is that an oral and</p>	<p style="text-align: right;">Page 56</p> <p>1 in September of '98?</p> <p>2 A. Yes.</p> <p>3 Q. And the other one was</p> <p>4 Laparoscopic Treatment of Symptomatic</p> <p>5 Endometriosis --</p> <p>6 A. Yes.</p> <p>7 Q. -- in 1995?</p> <p>8 A. Yes.</p> <p>9 Q. No other publications?</p> <p>10 A. Not that I know of.</p> <p>11 Q. Were those both</p> <p>12 peer-reviewed publications?</p> <p>13 A. Yes.</p> <p>14 Q. What is a peer-reviewed</p> <p>15 publication?</p> <p>16 A. I think it's journals that</p> <p>17 have been reviewed by colleagues and are</p> <p>18 published within the medical community</p> <p>19 and accepted as peer reviewed.</p> <p>20 Q. Okay. What's the</p> <p>21 significance of a journal -- an article</p> <p>22 being peer reviewed?</p> <p>23 A. I am just guessing at this</p> <p>24 point. I'm not quite sure, but I think</p>
<p style="text-align: right;">Page 55</p> <p>1 written exam?</p> <p>2 A. It's a written exam.</p> <p>3 Q. Did you pass on your first</p> <p>4 attempt?</p> <p>5 A. Yes, I did.</p> <p>6 Q. Have your hospital</p> <p>7 privileges from any of the hospitals</p> <p>8 you've practiced at ever been suspended</p> <p>9 or revoked?</p> <p>10 A. No. I've had to -- for</p> <p>11 Memorial, I've had to just let them know</p> <p>12 that I was stopping practicing</p> <p>13 obstetrics, and they had to have me sign</p> <p>14 a paper for that when I quit doing</p> <p>15 obstetrics, but for York they didn't have</p> <p>16 me do that.</p> <p>17 Q. Has your license to practice</p> <p>18 medicine ever been suspended or revoked?</p> <p>19 A. No, it has not.</p> <p>20 Q. On your updated CV I believe</p> <p>21 there's just two publications?</p> <p>22 A. Yes. That is correct.</p> <p>23 Q. One was Guidelines For the</p> <p>24 Laparoscopic Management of Adnexal Masses</p>	<p style="text-align: right;">Page 57</p> <p>1 it has some criteria of -- or a</p> <p>2 guideline -- not guidelines, but it has</p> <p>3 to meet certain criteria, I would think,</p> <p>4 to be admitted into those journals. They</p> <p>5 have reviewers and editors.</p> <p>6 Q. My question is a little bit</p> <p>7 different. What's the significance to</p> <p>8 you as a medical professional of a</p> <p>9 peer-reviewed journal article?</p> <p>10 A. Well, I would tend to read</p> <p>11 more of the peer reviewed than nonpeer</p> <p>12 reviewed if somebody just posted</p> <p>13 something on the Internet. I think</p> <p>14 there's increased quality hopefully in</p> <p>15 the reporting and accuracy of the</p> <p>16 reporting, but that doesn't mean that the</p> <p>17 studies are perfect.</p> <p>18 Q. And you can understand that</p> <p>19 even in peer-reviewed studies, the</p> <p>20 studies reported may have problems with</p> <p>21 them inherently?</p> <p>22 A. Yeah. That can happen.</p> <p>23 Q. Doctor, I don't see on your</p> <p>24 CV any consulting work. Am I correct</p>

<p style="text-align: right;">Page 58</p> <p>1 that you did some consulting work for</p> <p>2 Ethicon other than what you've done in</p> <p>3 connection with the Hammons case?</p> <p>4 A. I don't recall consulting</p> <p>5 work. I would -- I was a proctor to Dr.</p> <p>6 Rao for Prolift.</p> <p>7 Q. Were you paid for that?</p> <p>8 A. Yes, I was.</p> <p>9 Q. How much?</p> <p>10 A. \$2,000.</p> <p>11 Q. Any other consulting work</p> <p>12 that you recall off the top of your head</p> <p>13 for Ethicon?</p> <p>14 A. No.</p> <p>15 Q. Okay.</p> <p>16 A. Not that I recall.</p> <p>17 Q. Doctor, do you recall</p> <p>18 signing a contract for consulting in 2010</p> <p>19 with Ethicon?</p> <p>20 A. I saw -- I didn't recall it</p> <p>21 at the time, but I saw that paper, yes.</p> <p>22 Q. Okay. Well, let's just go</p> <p>23 ahead and mark that.</p> <p>24 A. But I felt that was for me</p>	<p style="text-align: right;">Page 60</p> <p>1 Drolet?</p> <p>2 A. Yes, it is.</p> <p>3 Q. And that's the correct</p> <p>4 address for you?</p> <p>5 A. Yes, it is.</p> <p>6 Q. And the re line there is</p> <p>7 master consulting agreement, correct?</p> <p>8 A. Yes.</p> <p>9 Q. Okay. And then if we turn</p> <p>10 back, if you look at the numbers at the</p> <p>11 bottom page -- of the page, bottom</p> <p>12 right-hand corner, it's</p> <p>13 ETH.MESH.03612205.</p> <p>14 A. Yes.</p> <p>15 Q. Is that your signature?</p> <p>16 A. Yes. That is.</p> <p>17 Q. And the date there is August</p> <p>18 4th, 2010?</p> <p>19 A. Yes, it is.</p> <p>20 Q. And it's also signed by</p> <p>21 Ethicon?</p> <p>22 A. It appears to be.</p> <p>23 Q. Okay. And if we look at</p> <p>24 this on the first page -- go back to the</p>
<p style="text-align: right;">Page 59</p> <p>1 to be proctor -- to be Dr. Rao's proctor</p> <p>2 in 2010.</p> <p>3 Q. Right.</p> <p>4 MS. BALDWIN: So let's mark</p> <p>5 this as Drolet-3 and this is a</p> <p>6 copy of that consulting agreement.</p> <p>7 (Whereupon, a document was</p> <p>8 marked for identification as</p> <p>9 Drolet Exhibit No. 3.)</p> <p>10 MS. BALDWIN: I should have</p> <p>11 an extra copy, but I don't appear</p> <p>12 to have one here.</p> <p>13 MR. MORIARTY: Just mark it,</p> <p>14 give it to her, and we'll worry</p> <p>15 about extras at a break.</p> <p>16 MS. BALDWIN: I think I've</p> <p>17 got it, Matt. Sorry. I just want</p> <p>18 to make sure I got you a copy.</p> <p>19 BY MS. BALDWIN:</p> <p>20 Q. And, Doctor, do you see the</p> <p>21 date at the top right hand, it says</p> <p>22 August 20th of 2010?</p> <p>23 A. I see that.</p> <p>24 Q. And that's your name, Julie</p>	<p style="text-align: right;">Page 61</p> <p>1 first page, please, paragraph 3.</p> <p>2 Paragraph 2 talks about from time to</p> <p>3 time, company will request in writing the</p> <p>4 provision of specific consulting</p> <p>5 services, explaining in detail the</p> <p>6 services to be provided, the date, time</p> <p>7 and location at which consulting services</p> <p>8 need to be provided.</p> <p>9 Do you see where I'm reading</p> <p>10 from?</p> <p>11 A. Yes, I do.</p> <p>12 Q. Right. And then paragraph 3</p> <p>13 says: In consideration for your</p> <p>14 provision of consulting services, you</p> <p>15 shall pay the amount set forth in</p> <p>16 Exhibit-A. Did I read that correctly?</p> <p>17 A. Company shall pay you the</p> <p>18 amount set forth -- yes.</p> <p>19 Q. Right. So Ethicon would be</p> <p>20 paying you for consulting services?</p> <p>21 A. Correct.</p> <p>22 Q. And then if we go to</p> <p>23 Exhibit-A, which is -- the last numbers</p> <p>24 are 2206 attached there. This is</p>

<p style="text-align: right;">Page 62</p> <p>1 services and fees, Exhibit-A. Do you see 2 that?</p> <p>3 A. Yes.</p> <p>4 Q. And under 5 preceptorship/surgical training, it says: 6 Consultant shall allow visiting surgeons 7 and visiting company sales 8 representatives to observe surgical 9 procedures involving the practice of 10 pelvic floor repair and stress urinary 11 incontinence.</p> <p>12 Did I read that correctly? 13 Paragraph 4.</p> <p>14 A. Yes.</p> <p>15 Q. See where I am?</p> <p>16 A. Yes, I do.</p> <p>17 Q. And it says: The clinical 18 uses of pelvic floor repair and stress 19 urinary incontinence family of products. 20 And then it goes on to say: And to 21 consult with consultant regarding such 22 procedures applicable to patient 23 confidentiality and consent requirements. 24 In particular, consultant</p>	<p style="text-align: right;">Page 64</p> <p>1 A. I see that.</p> <p>2 Q. And then it says: The 3 parties agree that the compensation paid 4 to consultant shall not exceed \$16,000 5 per contract term, except as may be 6 mutually agreed in writing by the 7 parties.</p> <p>8 A. I see that on there.</p> <p>9 Q. Okay. So you had a 10 consulting agreement then with Ethicon to 11 provide services, correct?</p> <p>12 A. I had this contract, yes.</p> <p>13 Q. Right. And that didn't just 14 specify that you were providing 15 proctorship for Dr. Rao for the Prolift, 16 correct?</p> <p>17 A. Not in this contract.</p> <p>18 Q. Right. And, in fact, when 19 you provided proctorships for your 20 partner or -- was she a partner or an 21 employee?</p> <p>22 A. She was an employee.</p> <p>23 Q. You did that for free for 24 the company. Isn't that correct?</p>
<p style="text-align: right;">Page 63</p> <p>1 agrees he or she shall secure appropriate 2 patient consent to the presence of any 3 third party during surgical training 4 programs as necessary. Consultant shall 5 allow such visits on up to seven 6 occasions and company shall pay 7 consultant \$2,000 for each such session 8 per eight-hour day.</p> <p>9 Did I read that correctly?</p> <p>10 A. Yes. I think you did.</p> <p>11 Q. Okay. And if you flip to 12 the next page, paragraph 8, other, the 13 box checked yes. Do you see that?</p> <p>14 A. Yes, I do.</p> <p>15 Q. That says: Consultant shall 16 perform such other services designated 17 below, and it said the rate would vary 18 per hour?</p> <p>19 A. Yes. It looks like it does, 20 yes.</p> <p>21 Q. And then it says: Faculty 22 training meetings and educational summits 23 or forums. Negotiated rate to be no more 24 than the maximum of 250 rate per hour?</p>	<p style="text-align: right;">Page 65</p> <p>1 A. I remember receiving a check 2 for \$2,000.</p> <p>3 Q. Okay.</p> <p>4 A. That's all.</p> <p>5 Q. Okay.</p> <p>6 (Whereupon, a document was 7 marked for identification as 8 Drolet Exhibit No. 4.)</p> <p>9 BY MS. BALDWIN:</p> <p>10 Q. And then let's look at 11 Drolet-4. And this is a document. It's 12 an e-mail from Ariba administrator, 13 jjariba@corus.jnj.com.</p> <p>14 Do you see that at the top?</p> <p>15 A. Yes, I do.</p> <p>16 Q. And it's to a Caro-Rosado, 17 Lissette at ETHUS. Do you see that?</p> <p>18 A. Yes.</p> <p>19 Q. And then under action 20 required, right below that, it says 2010 21 professional education, Julie Drolet, 22 M.D. That's you, correct?</p> <p>23 A. Yes. That is.</p> <p>24 Q. And then it says below that,</p>

<p style="text-align: right;">Page 66</p> <p>1 U.S. incontinence, annual, approval 2 request. 3 Did I read that correctly 4 just in the subject line? 5 A. Yes. Yes. 6 MR. MORIARTY: Kila, do you 7 have a copy of that? 8 MS. BALDWIN: Yes. I'm 9 sorry, Matt. 10 BY MS. BALDWIN: 11 Q. And if we go down there, and 12 we look at the actual body of the e-mail, 13 it says professional -- top of form and 14 then below that in bold it says, 15 professional education, Julie Drolet, 16 M.D., U.S. incontinence, annual requires 17 your approval. 18 Did I read that correctly? 19 A. I'm sorry. Where... 20 Q. The bold section here. I 21 can point it to you. 22 A. Bold. 23 Q. Bold right there. 24 A. Okay. Yes. Okay. Yes.</p>	<p style="text-align: right;">Page 68</p> <p>1 consultant shall perform 2 preceptorship/surgical training in pelvic 3 floor repair and stress urinary 4 incontinence procedures and demonstrate 5 the clinical uses of the company's PFR 6 and SUI products. 7 Consultant will also engage 8 in other services such as faculty 9 training meetings and educational summits 10 and forums and that you shall be 11 compensated at \$2,000 per eight-hour day, 12 250 per hour. 13 Did I read that correctly? 14 A. Yes, you did. 15 Q. And then the price is 15,200 16 over to the right? 17 A. I see that on this paper, 18 yes. 19 Q. And the next line is meals 20 and out-of-pocket expenses, and the price 21 for that is \$800? 22 A. That's what it says. 23 Q. And then the total cost is 24 \$16,000?</p>
<p style="text-align: right;">Page 67</p> <p>1 Q. And the requester is a -- 2 I'm not sure what's the first name. 3 Rosado Lissette Caro? 4 A. I don't know who she is. 5 Q. Okay. Well, this document 6 seems to be created, if you follow along 7 that line, on Monday, September 13th, 8 2010, correct? 9 A. This was sent on Tuesday, 10 the 14th. 11 Q. Okay. 12 A. Oh, yes. I see that. 13 September 13th, yes. 14 Q. Okay. And then below that, 15 there's some line items, and it says 16 supplier and description? 17 A. Yes. 18 Q. Line item one identifies 19 you, Julie Drolet, correct? 20 A. That is correct. 21 Q. And it gives a contract ID 22 number, and it says consulting fee? 23 A. I see that. 24 Q. It says: HCC-approved</p>	<p style="text-align: right;">Page 69</p> <p>1 A. That is correct. 2 Q. Okay. Do you know if you 3 got a check in connection with these 4 consulting services? 5 A. I do know that I did not get 6 a check except for \$2,000. 7 Q. Okay. But you're not sure 8 what that \$2,000 was for? 9 A. Yes, I do. 10 Q. You think that was for 11 proctoring Dr. Rao? 12 A. I think so. That's my 13 understanding. 14 Q. Okay. Do you know who David 15 Pursel is? 16 A. Yes. 17 Q. Who is he? 18 A. He's an -- or was. I don't 19 know if he still is, a rep for Ethicon. 20 Q. Okay. A sales rep? 21 A. Sales rep, I would think. 22 Q. And is he someone who 23 detailed your office? 24 A. Yes.</p>

<p style="text-align: right;">Page 70</p> <p>1 Q. Okay. How often would you 2 see him?</p> <p>3 A. I can't recall exactly. I 4 haven't seen him in a while.</p> <p>5 Q. Okay.</p> <p>6 MS. BALDWIN: So we'll mark 7 this as Drolet-5. Here you go, 8 Matt.</p> <p>9 (Whereupon, a document was 10 marked for identification as 11 Drolet Exhibit No. 5.)</p> <p>12 BY MS. BALDWIN:</p> <p>13 Q. And this is an e-mail dated 14 June 20th, 2011 from David Pursel to a 15 Melissa Doyle. Do you see that?</p> <p>16 A. I see that.</p> <p>17 Q. Do you know who Melissa 18 Doyle is?</p> <p>19 A. No idea.</p> <p>20 Q. Okay. If you go down to the 21 e-mail, the second, I guess, paragraph 22 there, it says: Drolet still doing 23 Prolift and has been trying some empathy 24 mesh kits, also. Has been proctoring her</p>	<p style="text-align: right;">Page 72</p> <p>1 Go ahead.</p> <p>2 A. Not that I recall.</p> <p>3 Q. Okay. Do you know if you 4 were considered a high-volume practice by 5 Ethicon?</p> <p>6 A. I do not.</p> <p>7 Q. Okay. Do you know if 8 Ethicon was targeting physicians who used 9 a high volume of their products?</p> <p>10 A. I don't have any idea about 11 that.</p> <p>12 Q. Did Ethicon ever send 13 patients to you?</p> <p>14 MR. MORIARTY: Objection.</p> <p>15 Go ahead.</p> <p>16 A. Not that I know of.</p> <p>17 Q. Okay.</p> <p>18 MS. BALDWIN: I'll mark this 19 as Drolet-6.</p> <p>20 (Whereupon, a document was 21 marked for identification as 22 Drolet Exhibit No. 6.)</p> <p>23 BY MS. BALDWIN:</p> <p>24 Q. And, Doctor, this is an</p>
<p style="text-align: right;">Page 71</p> <p>1 partner on Prolift for free since we have 2 no budget left.</p> <p>3 Did I read that correctly?</p> <p>4 A. Yep.</p> <p>5 Q. Okay. And at the very 6 bottom of the e-mail -- it's kind of a 7 chain, so the first e-mail at the bottom 8 is from this Melissa Doyle to David 9 Pursel dated June 17th, 2011.</p> <p>10 Do you see that e-mail?</p> <p>11 A. Yes, I do.</p> <p>12 Q. And it says: I'll try 13 again. What's going on with her in terms 14 of faculty? Did she adopt Prosima?</p> <p>15 Do you know what that 16 reference is as far as in terms of 17 faculty?</p> <p>18 A. No.</p> <p>19 Q. Were you ever paid to be 20 faculty for Ethicon at any meetings?</p> <p>21 A. No. I don't think so.</p> <p>22 Q. Did you ever serve as a key 23 opinion leader for Ethicon?</p> <p>24 MR. MORIARTY: Objection.</p>	<p style="text-align: right;">Page 73</p> <p>1 e-mail at the very top. It looks like 2 it's an e-mail from Chad Lauer to David 3 Pursel.</p> <p>4 Do you know who Chad Lauer 5 is?</p> <p>6 A. No, I do not.</p> <p>7 Q. Okay.</p> <p>8 MR. MORIARTY: Do you have 9 an extra?</p> <p>10 MS. BALDWIN: Yeah. I'm 11 sorry, Matt.</p> <p>12 BY MS. BALDWIN:</p> <p>13 Q. If we go all the way to the 14 very back, the last page, I think that's 15 where the e-mail chain starts. So the 16 bottom of the page before that you'll see 17 it's an e-mail from Chad Lauer to Matt 18 Henderson.</p> <p>19 And he says: Matt, could 20 you tell me of a Gynecare friendly 21 surgeon in York, PA, or at least turn me 22 on to your rep in that area? I have an 23 aunt who needs someone. Thank you.</p> <p>24 Did I read that correctly?</p>

<p style="text-align: right;">Page 74</p> <p>1 A. You read that piece of paper 2 correctly. 3 Q. And that's from Chad Lauer, 4 identifies himself as the field marketing 5 manager west of Ethicon? 6 A. Yes. 7 Q. Okay. And then if we go 8 through the e-mails in order then, Matt 9 Henderson tells Chad Lauer to check with 10 Dave Pursel? The bottom of 967. 11 A. Yes. 12 Q. Do you see where I am? 13 A. Can you help me out? 14 Q. Right. Below that, the 15 e-mail before that -- 16 A. Okay. 17 Q. -- Matt tells Chad to check 18 with Dave Pursel? 19 A. Correct. Yes. 20 Q. And then Chad forwards the 21 e-mail to Dave Pursel asking for help, 22 correct? 23 A. It says can you help me out, 24 yes.</p>	<p style="text-align: right;">Page 76</p> <p>1 MR. MORIARTY: Go ahead. 2 A. Not that I recall. 3 Q. Okay. Did David Pursel ever 4 tell you that he was referring patients 5 to you? 6 MR. MORIARTY: Objection. 7 A. Not that I recall. 8 Q. Did David Pursel ever tell 9 you that he was recommending you to 10 others at Ethicon who were looking for 11 surgeons in the York area? 12 A. Not that I recall. 13 Q. Did you ever serve as 14 faculty for Ethicon at any events? 15 MR. MORIARTY: Objection. 16 Asked and answered. 17 A. Do I have to answer this 18 one? 19 Q. Yes. 20 A. Okay. Not that I recall. 21 Q. Okay. 22 (Whereupon, a document was 23 marked for identification as 24 Drolet Exhibit No. 7.)</p>
<p style="text-align: right;">Page 75</p> <p>1 Q. Right. And then above that, 2 Dave makes some recommendations. One is 3 a John Lawrence and one is a Detlef 4 Gerlach. Did you see that? 5 A. Uh-huh. 6 Q. And then if we flip to the 7 first page, Chad asks if he's heard of 8 anyone doing the Prolift, and David 9 Pursel at Ethicon recommends you. He 10 says Dr. Julie Drolet, a good surgeon as 11 well, correct? 12 A. Where are we in all of this? 13 MR. MORIARTY: Front page. 14 Q. On the first page. 15 A. Yes. Okay. I see that. 16 Q. So you were recommended, 17 correct? 18 A. It appears to be on this 19 page. 20 Q. Okay. Did Ethicon ever tell 21 you that they were referring patients to 22 you? 23 MR. MORIARTY: Objection. 24 A. No.</p>	<p style="text-align: right;">Page 77</p> <p>1 BY MS. BALDWIN: 2 Q. So I'll hand you a 3 spreadsheet marked as No. 7, I think it 4 is or -- yeah. And if you look at this 5 spreadsheet, about three quarters of the 6 way down the first page there's your 7 name, Julie Drolet, M.D., gynecologist, 8 correct? 9 A. That is correct. 10 Q. And if you look at the very 11 top of the page, it's identifying 12 faculty. You see it says faculty last 13 name, faculty first name and their 14 specialty, correct? 15 A. That's what it says on this 16 paper. 17 Q. Okay. Do you have any 18 recollection of being an educator for 19 TVTO, TVT Abbrevio or TVT Exact? 20 A. I do not. 21 Q. Do you know why your name 22 would appear on a list of faculty who was 23 teaching those products? 24 A. I do not have any idea.</p>

<p style="text-align: right;">Page 78</p> <p>1 Q. Were you ever given free 2 products from Ethicon? 3 A. You mean by the sales reps? 4 Q. Yeah. Free products to use 5 for your patients? 6 A. Not that I know of other 7 than pens or pencils and -- but no. 8 MS. BALDWIN: I'm sorry. 9 Wait. I didn't mark that one. 10 Pass that back for just a second. 11 I'm sorry. We'll mark that as 12 Exhibit-8. 13 (Whereupon, a document was 14 marked for identification as 15 Drolet Exhibit No. 8.) 16 BY MS. BALDWIN: 17 Q. And, Doctor, this is an 18 e-mail, if you look at the top, from 19 David Pursel to a Phil Schmidt. Do you 20 see that? 21 A. Yes, I do. 22 Q. Do you know Phil Schmidt? 23 A. He used to work at Memorial, 24 yes.</p>	<p style="text-align: right;">Page 80</p> <p>1 between Phil Schmidt who is an employee 2 of the hospital. So I have no say in 3 what the hospital purchases or gets 4 freebies from which rep from whatever 5 products. I have no idea. 6 Q. Okay. So the hospital may 7 have been getting free products from 8 Ethicon for surgeries you were 9 performing? 10 A. That's a possibility. 11 Q. But you don't know anything 12 about that? 13 A. But I don't know anything 14 about that. 15 Q. Okay. And then, Doctor, you 16 actually signed another contract with 17 Ethicon beyond the one we already looked 18 at. Is that correct? 19 A. I don't recall. 20 Q. Okay. I'll show you another 21 e-mail. 22 MS. BALDWIN: We'll mark 23 this one as Drolet-9. 24 (Whereupon, a document was</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. Okay. What was his role 2 there? 3 A. I think he was in materials 4 management at the time. 5 Q. Okay. 6 A. I'm not sure. 7 Q. Okay. If you go, there's a 8 first e-mail and the one just below that, 9 it's the e-mail from David Pursel to Phil 10 Schmidt. 11 A. I see that. 12 Q. 8:25 p.m. on January 26th 13 2011. 14 A. I see that. 15 Q. It says: Phil, I brought in 16 one anterior and one posterior kit for 17 her last two cases at no charge. In the 18 past I have always tried to provide free 19 samples as much as possible. 20 Do you dispute that David 21 Pursel was giving you free products? 22 MR. MORIARTY: Objection. 23 Go ahead. 24 A. I had no idea. This is</p>	<p style="text-align: right;">Page 81</p> <p>1 marked for identification as 2 Drolet Exhibit No. 9.) 3 BY MS. BALDWIN: 4 Q. And this is another e-mail 5 from the Ariba administrator to Paul 6 Parisi. Did I read that correctly? 7 A. That is correct. 8 Q. Do you know who Paul Parisi 9 is? 10 A. I do not. 11 Q. Okay. And here, if we go 12 down to the actual line items, again, 13 number one is your name, Julie Drolet, 14 correct? 15 A. That is correct. 16 Q. Again, it's a consulting 17 fee? 18 A. It looks like it. 19 Q. And at the bottom of that 20 line item it says: Consultant shall be 21 compensated for these services at \$30,000 22 per year, \$2,000 per eight-hour day, \$250 23 per hour. 24 Did I read that correctly?</p>

<p style="text-align: right;">Page 82</p> <p>1 A. Yes, you did.</p> <p>2 Q. And if you go over to the</p> <p>3 price there, it's \$28,500. Did I read</p> <p>4 that correctly?</p> <p>5 A. You read that correctly.</p> <p>6 Q. And then below that there's</p> <p>7 meals and out-of-pocket expenses in the</p> <p>8 amount of \$1500. Did I read that</p> <p>9 correctly?</p> <p>10 A. You read that correctly.</p> <p>11 Q. And the total cost is</p> <p>12 \$30,000?</p> <p>13 A. You read that correctly.</p> <p>14 Q. Were you ever paid any</p> <p>15 amount from this \$30,000?</p> <p>16 A. Not that I recall.</p> <p>17 Q. Okay. So you signed</p> <p>18 contracts with Ethicon for \$30,000 and</p> <p>19 \$16,000, but you were never paid?</p> <p>20 A. I got some fees reimbursed</p> <p>21 when I went to some training, but except</p> <p>22 for that \$2,000 check that we received, I</p> <p>23 didn't see any of that money.</p> <p>24 Q. What was the purpose in</p>	<p style="text-align: right;">Page 84</p> <p>1 these were paid.</p> <p>2 Q. What trainings did you go to</p> <p>3 for Ethicon?</p> <p>4 A. I went to a TVT training</p> <p>5 around 2002. I went to the Prolift</p> <p>6 training in April of 2005. I remember</p> <p>7 doing Prosima one-day training; I can't</p> <p>8 recall the exact year, and then TVT, I</p> <p>9 think it was Secur as well, but I can't</p> <p>10 remember the exact dates.</p> <p>11 Q. Where were those trainings</p> <p>12 held?</p> <p>13 A. The Prolift training was in</p> <p>14 Allentown. The other trainings may have</p> <p>15 been in Maryland. I'm not quite sure.</p> <p>16 Q. Did Ethicon pay for your</p> <p>17 travel?</p> <p>18 A. I think it did.</p> <p>19 Q. Did they pay for your meals?</p> <p>20 A. I think they provided the</p> <p>21 meals. I would say yes.</p> <p>22 Q. How long were each of those</p> <p>23 trainings?</p> <p>24 A. The Prolift was the entire</p>
<p style="text-align: right;">Page 83</p> <p>1 signing contracts with Ethicon?</p> <p>2 A. I guess if they needed me in</p> <p>3 some capacity, these things would be in</p> <p>4 place, but I'm not quite sure.</p> <p>5 Q. Did you ask them what needs</p> <p>6 they might have for you?</p> <p>7 A. I don't recall.</p> <p>8 Q. Okay. Did you have a</p> <p>9 discussion with them about why you needed</p> <p>10 to sign a consulting agreement with them?</p> <p>11 A. I thought it was in order</p> <p>12 for me to proctor Dr. Rao, and the</p> <p>13 hospital had to approve the proctor. I</p> <p>14 thought these had to be done, so I did</p> <p>15 it.</p> <p>16 Q. What procedures did you</p> <p>17 proctor Dr. Rao on?</p> <p>18 A. For the Prolift, I did</p> <p>19 anterior and posterior.</p> <p>20 Q. Anything else?</p> <p>21 A. I proctored her on a lot of</p> <p>22 things. Hysteroscopies,</p> <p>23 sacrocolpopexies. She came in with me on</p> <p>24 a lot of cases, InterStims. None of</p>	<p style="text-align: right;">Page 85</p> <p>1 day, and Prosima, I think, was close to</p> <p>2 an entire day.</p> <p>3 Q. And the TVT?</p> <p>4 A. That, I can't remember. I</p> <p>5 can't recall.</p> <p>6 Q. Were they more than one-day</p> <p>7 trainings or were they just one-day</p> <p>8 trainings?</p> <p>9 A. I think they were one-day</p> <p>10 trainings, I think.</p> <p>11 Q. How is it that you got</p> <p>12 invited to go to these trainings?</p> <p>13 A. I'm not quite sure.</p> <p>14 Q. Did the sales rep bring them</p> <p>15 up to you?</p> <p>16 A. It's possible. I mean, I</p> <p>17 don't recall.</p> <p>18 Q. Do you know if you asked</p> <p>19 someone to go to the trainings?</p> <p>20 A. I can't recall.</p> <p>21 Q. Do you know how Ethicon</p> <p>22 would let doctors generally know about</p> <p>23 its trainings?</p> <p>24 A. I don't have any idea of how</p>

<p style="text-align: right;">Page 86</p> <p>1 that happened.</p> <p>2 Q. When you went to Prolift,</p> <p>3 how many people were there?</p> <p>4 A. There were three other</p> <p>5 doctors, I think. Maybe four, but</p> <p>6 between three and four other doctors.</p> <p>7 Q. Who led the training?</p> <p>8 A. Dr. Vince Lucente.</p> <p>9 Q. And what was the forum like?</p> <p>10 What did the day consist of?</p> <p>11 A. Early morning we had some</p> <p>12 didactics video and then he had four</p> <p>13 cases in the OR for which all of us got</p> <p>14 to scrub. Afterwards, there was a kind</p> <p>15 of debriefing videos and conversations.</p> <p>16 Q. How is it when you did the</p> <p>17 proctorship for Dr. Rao that Ethicon got</p> <p>18 involved to give you a consulting</p> <p>19 contract? Did someone tell you you had</p> <p>20 to sign that?</p> <p>21 A. I don't recall.</p> <p>22 Q. Did you ask someone whether</p> <p>23 you had to sign one as opposed to just</p> <p>24 bringing her into the surgery as your</p>	<p style="text-align: right;">Page 88</p> <p>1 Q. How many?</p> <p>2 A. I can't recall.</p> <p>3 Q. More than one?</p> <p>4 A. There could have been.</p> <p>5 There was one for -- that was a local rep</p> <p>6 and then there was the rep that brought</p> <p>7 me there.</p> <p>8 Q. Which rep brought you there?</p> <p>9 A. I can't recall for sure.</p> <p>10 Q. And when you say that rep</p> <p>11 brought you there, what do you mean by</p> <p>12 that?</p> <p>13 A. I had a cast. I couldn't</p> <p>14 drive.</p> <p>15 Q. So he drove you?</p> <p>16 A. Yeah.</p> <p>17 Q. And am I right that Dr.</p> <p>18 Lucente also led your TVT training?</p> <p>19 A. I don't specifically recall.</p> <p>20 Q. Okay. But if I told you</p> <p>21 that, you'd have no reason to dispute it?</p> <p>22 A. I would not.</p> <p>23 Q. Doctor, at some point in</p> <p>24 your -- I think it was in your report</p>
<p style="text-align: right;">Page 87</p> <p>1 employee?</p> <p>2 A. I think there was some</p> <p>3 issues with how the hospital would have</p> <p>4 credentialed Dr. Rao to be able to do</p> <p>5 those procedures, so I don't know how it</p> <p>6 got -- it brought -- how it got brought</p> <p>7 up, but the solution that was acceptable</p> <p>8 to all parties was for me to become a</p> <p>9 proctor so that I could proctor her and</p> <p>10 then she could be able to do those</p> <p>11 procedures.</p> <p>12 Q. Were there any other doctors</p> <p>13 who were in those proctorships other than</p> <p>14 you and Dr. Rao that you led?</p> <p>15 A. I didn't -- I don't recall</p> <p>16 having anybody else but me proctoring Dr.</p> <p>17 Rao.</p> <p>18 Q. Was there a sales rep</p> <p>19 present?</p> <p>20 A. I -- I don't remember.</p> <p>21 Q. When you went to your</p> <p>22 Prolift training with Dr. Vince Lucente,</p> <p>23 was there a sales rep present?</p> <p>24 A. Yes, there was.</p>	<p style="text-align: right;">Page 89</p> <p>1 there was a statement that you've been</p> <p>2 teaching obstetricians and gynecologists</p> <p>3 since 1994. Is that correct?</p> <p>4 A. Residents --</p> <p>5 Q. Okay.</p> <p>6 A. -- in obstetrics and</p> <p>7 gynecology.</p> <p>8 Q. Okay. And what school are</p> <p>9 they coming from?</p> <p>10 A. Over at Memorial Hospital it</p> <p>11 is PCOM and LECOM, Lehigh Valley, and at</p> <p>12 York it's -- I think it's University of</p> <p>13 Pennsylvania.</p> <p>14 Q. And so you're instructing</p> <p>15 the residents in general obstetrics and</p> <p>16 gynecology?</p> <p>17 A. Now only in gynecology since</p> <p>18 2008.</p> <p>19 Q. Okay. And then I saw</p> <p>20 something on your CV about you being an</p> <p>21 adjunct clinical assistant professor at</p> <p>22 the Lake Erie College of Osteopathic</p> <p>23 Medicine?</p> <p>24 A. That's LECOM.</p>

<p style="text-align: right;">Page 90</p> <p>1 Q. Okay. And do you have any 2 technical title with PCOM or the 3 University of Pennsylvania? 4 A. No. I don't think so. 5 Q. So that title with LECOM, is 6 that just by virtue of you instructing 7 their residents that rotate through the 8 hospital? 9 A. I would think so. 10 Q. Okay. Do you teach any 11 actual classes physically at the college? 12 A. No, I do not. 13 Q. Okay. Are you teaching 14 gynecological surgeries to the residents? 15 A. Yes. 16 Q. Other than York and 17 Memorial, do you have privileges at any 18 other facilities? 19 A. Outpatient facilities at 20 Apple Hill Surgical Center and the 21 Surgical Center of York which is right 22 beside Memorial Hospital. 23 Q. In your report it said that 24 you have a special interest in</p>	<p style="text-align: right;">Page 92</p> <p>1 mesh erosion. Granulomas. 2 Q. Doctor, do you know what the 3 rates of the patient where you've 4 implanted mesh for the treatment of 5 pelvic organ prolapse, what your 6 complication rates are? 7 A. I can guesstimate. 8 Q. Okay. 9 A. All right. 10 MR. MORIARTY: I'm sorry. 11 Did you say on patients for whom 12 she's operated? 13 MS. BALDWIN: Yes. 14 MR. MORIARTY: Okay. 15 MS. BALDWIN: What her 16 complication rates are. Go ahead. 17 THE WITNESS: Which one 18 would you like me -- which one do 19 you want? 20 BY MS. BALDWIN: 21 Q. Let's start with pain. 22 A. Percentage-wise... 23 MR. MORIARTY: I'm sorry to 24 interrupt. Are we just talking</p>
<p style="text-align: right;">Page 91</p> <p>1 urogynecology with a focus on pelvic 2 pain, pelvic prolapse and incontinence. 3 What percentage of your 4 patient population are suffering from 5 these disorders? 6 A. About 50 percent right now. 7 Sorry. Pardon me. About 50 percent. 8 Q. Are you still doing open 9 procedures for the treatment of pelvic 10 organ prolapse? 11 A. Very rarely. 12 Q. And what do you mean by very 13 rarely? 14 A. I think the last time I had 15 to do a laparotomy was two years ago in 16 the United States. 17 Q. Do you have experience in 18 treating women who have suffered from 19 mesh complications? 20 A. I do. 21 Q. Okay. And define for me 22 what kind of mesh complications you've 23 seen? 24 A. I've seen pain. I've seen</p>	<p style="text-align: right;">Page 93</p> <p>1 about POP? 2 MS. BALDWIN: Yes. 3 MR. MORIARTY: Okay. 4 THE WITNESS: Okay. No 5 slings? 6 MS. BALDWIN: Right. Yep. 7 Just for treatment of pelvic organ 8 prolapse as I said. 9 THE WITNESS: Okay. To the 10 best of my recollection, 11 spontaneous pain unprovoked, zero. 12 BY MS. BALDWIN: 13 Q. And would that include pain 14 with intercourse? 15 A. No. 16 Q. Okay. What about pain with 17 intercourse? 18 A. Again, to my recollection, 19 probably less than 5 percent. 20 Q. What about erosion? 21 A. Depending on the mesh, less 22 than 5 percent. 23 Q. Have you seen more erosion 24 in patients with certain products versus</p>

<p style="text-align: right;">Page 94</p> <p>1 others?</p> <p>2 A. Yes.</p> <p>3 Q. And can you explain?</p> <p>4 A. I tried -- and I can't</p> <p>5 remember which company. It wasn't</p> <p>6 Prolift. It was an Ethicon product, but</p> <p>7 it was mesh with collagen, and I had two</p> <p>8 anterior repairs, and the entire incision</p> <p>9 dehiscd. So I brought them back to the</p> <p>10 OR, closed it. They did fine, but those</p> <p>11 two patients, I've continued to see them,</p> <p>12 but I didn't want to use that product</p> <p>13 again.</p> <p>14 Q. So you've only had two</p> <p>15 patients ever who have had erosion?</p> <p>16 A. No.</p> <p>17 Q. Okay.</p> <p>18 A. So other than those --</p> <p>19 depending on the type of mesh, other than</p> <p>20 those two patients who were a hundred</p> <p>21 percent, the rest were less than 5</p> <p>22 percent.</p> <p>23 Q. Okay. Do you mean that less</p> <p>24 than 5 percent of your other patients</p>	<p style="text-align: right;">Page 96</p> <p>1 Q. Okay. Do you automatically</p> <p>2 send the records to the implanting</p> <p>3 physician?</p> <p>4 A. I send a records release</p> <p>5 signed by the patient to the implanting</p> <p>6 physician because I want to know exactly</p> <p>7 what type of mesh, how it was put in. I</p> <p>8 want to read the operative report.</p> <p>9 Q. Okay. So you try to get</p> <p>10 information from the implanting physician</p> <p>11 about the type of mesh and what happened</p> <p>12 with the patient?</p> <p>13 A. Correct.</p> <p>14 Q. You don't necessarily</p> <p>15 provide information to the implanting</p> <p>16 physician about your treatment of that</p> <p>17 patient?</p> <p>18 A. Sometimes I do at patient's</p> <p>19 request.</p> <p>20 Q. But not always?</p> <p>21 A. Not always.</p> <p>22 Q. So it's not your normal</p> <p>23 protocol, every patient who comes in with</p> <p>24 a mesh complication, if it wasn't</p>
<p style="text-align: right;">Page 95</p> <p>1 have suffered some form of erosion?</p> <p>2 A. Yes.</p> <p>3 Q. Yes. Okay.</p> <p>4 A. That's what I think.</p> <p>5 Q. Okay. And this is with your</p> <p>6 patients?</p> <p>7 A. My patients, yes.</p> <p>8 Q. Have you had patients come</p> <p>9 to you who have been implanted by a</p> <p>10 different physician who are experiencing</p> <p>11 complications from their mesh implant</p> <p>12 seeking treatment?</p> <p>13 A. Yes.</p> <p>14 Q. Okay. And have those</p> <p>15 patients come to you for problems like</p> <p>16 pain, pain with intercourse and erosion?</p> <p>17 A. Yes.</p> <p>18 Q. Okay. And do you, in turn,</p> <p>19 call their implanting physician to let</p> <p>20 that physician know that there was a</p> <p>21 complication from their implant surgery?</p> <p>22 A. I don't call them, but I do</p> <p>23 have the patients sign records release</p> <p>24 and the reason for the records release.</p>	<p style="text-align: right;">Page 97</p> <p>1 implanted by you, either in writing or</p> <p>2 phone call to somehow contact an</p> <p>3 implanter to explain the nature of the</p> <p>4 complication and what your treatment is?</p> <p>5 MR. MORIARTY: Objection.</p> <p>6 Go ahead.</p> <p>7 A. It's not my usual habit.</p> <p>8 Q. So you may be treating</p> <p>9 patients who are mesh complication and</p> <p>10 their implanter does not know that</p> <p>11 they're suffering from that complication?</p> <p>12 A. That is a possibility.</p> <p>13 Q. And, likewise, it's also a</p> <p>14 possibility that some of your patients</p> <p>15 may have left your practice after you</p> <p>16 implanted them with a mesh product and</p> <p>17 are suffering complications that you</p> <p>18 don't know about?</p> <p>19 A. Yes, but I see the records</p> <p>20 release forms.</p> <p>21 Q. Right. You see the records</p> <p>22 release, but you don't necessarily get</p> <p>23 all their records from subsequent</p> <p>24 physicians, correct?</p>

<p style="text-align: right;">Page 98</p> <p>1 A. No, but if I have a 2 patient -- 3 MR. MORIARTY: Objection. 4 A. -- who is at another 5 doctor's office and she sends a records 6 release, I get to see those. 7 Q. Right. 8 A. And I pull if -- when we 9 were in paper chart at the time, I'm the 10 one that has access to our chart room. 11 Q. Right. So you pull your 12 chart on that patient and look at it? 13 A. Correct. 14 Q. You don't pull the other 15 doctor's chart because you don't have the 16 other doctor's chart, correct? 17 A. I think we're -- are we 18 asking about the -- are we talking about 19 the same thing? 20 Q. I think you're 21 misunderstanding me. You understand that 22 patients leave your practice, correct? 23 A. Yes. 24 Q. And they may go to other</p>	<p style="text-align: right;">Page 100</p> <p>1 be a correct statement. 2 Q. Right. No doctor can? 3 A. That would be a correct 4 statement that I think. 5 MS. BALDWIN: I think we're 6 short on video time, so we might 7 as well take a break here because 8 he's got to change tapes. 9 THE VIDEOGRAPHER: The time 10 is now 11:25, and this concludes 11 DVD number 1. 12 (A short break was taken.) 13 THE VIDEOGRAPHER: The time 14 is now 11:39, and this is the 15 beginning of DVD number 2. 16 BY MS. BALDWIN: 17 Q. Doctor, other than the 18 proctorship that we talked about with 19 Ethicon and the contract that we looked 20 at, have you had any other financial 21 agreements with any other medical device 22 manufacturers in your career? 23 A. Not that I recall. 24 Q. Have you ever been paid by a</p>
<p style="text-align: right;">Page 99</p> <p>1 doctors that you don't know about at 2 times, correct? 3 A. That could be correct, yes. 4 Q. If those doctors don't send 5 you a release, you have no way of knowing 6 what doctors those are, correct? 7 A. Correct. 8 Q. And if those patients choose 9 not to let their doctor know, you have no 10 way of knowing if that patient has 11 experienced complications, correct? 12 A. That could be correct, yes. 13 Q. So am I correct that as a 14 physician, you don't follow all of your 15 patients in perpetuity for the rest of 16 their lives to see if they're 17 experiencing complications? 18 A. We try to. We have recalls 19 and we send them notices, and we have 20 people going through our chart list and 21 calling them periodically. 22 Q. But you can't say that you 23 followed all of your patients forever? 24 A. I absolutely -- that would</p>	<p style="text-align: right;">Page 101</p> <p>1 medical device manufacturer or 2 pharmaceutical company other than what 3 you've been paid by Ethicon that we 4 looked at? 5 A. Not that I recall. 6 Q. Okay. Am I correct then 7 that you don't hold yourself out as an 8 expert in the design of medical devices? 9 MR. MORIARTY: Objection. 10 Go ahead. 11 A. Well, as a surgeon, there's 12 certain things that I'm interested in, 13 and as a pelvic floor surgeon I would 14 want to use my knowledge to see if a 15 product makes sense or not, but do I 16 design them? No. I do not design them. 17 Q. Right. You've never 18 designed a medical device? 19 A. That would be correct. 20 Q. And you've never worked with 21 a medical device manufacturer in 22 designing a medical device? 23 A. That would be correct. I've 24 spoken to design teams, but that's it.</p>

<p style="text-align: right;">Page 102</p> <p>1 Q. What design teams have you 2 spoken to?</p> <p>3 A. The Coloplast group.</p> <p>4 Q. Did you have a financial 5 agreement with them?</p> <p>6 A. No.</p> <p>7 Q. Okay. And what -- when did 8 this happen?</p> <p>9 A. I'm not quite sure. Between 10 2009 and 2011, '12. I'm not quite sure.</p> <p>11 Q. And what was the nature of 12 your communications? You said you spoke 13 with them. What did you speak with them 14 about?</p> <p>15 A. It was in conjunction with a 16 conference, and they said they had their 17 techs there, and we talked about mesh. I 18 thought that their design didn't 19 do -- didn't provide enough support.</p> <p>20 Q. Okay. So you were giving 21 them your critiques as a surgeon?</p> <p>22 A. Correct.</p> <p>23 Q. Right. You weren't involved 24 in the actual design?</p>	<p style="text-align: right;">Page 104</p> <p>1 out as an expert generally in medical 2 device industry practice?</p> <p>3 A. That's a very broad 4 question. I use devices, so I've 5 developed an expertise.</p> <p>6 Q. Your expertise is based on 7 your use of the devices, correct?</p> <p>8 A. Partly, yes.</p> <p>9 Q. And not on the regulation of 10 those devices?</p> <p>11 A. Yes. I would agree with 12 that statement.</p> <p>13 Q. Right. You're not an expert 14 in the FDA regulation of medical devices?</p> <p>15 A. That would be correct.</p> <p>16 Q. Okay. And you're not an 17 expert in the standards for the labels of 18 medical devices?</p> <p>19 A. What do you mean by labels?</p> <p>20 Q. The warning labels or the 21 product labels or the packaging that 22 comes with a medical device?</p> <p>23 MR. MORIARTY: Objection. 24 Go ahead.</p>
<p style="text-align: right;">Page 103</p> <p>1 A. That is correct.</p> <p>2 Q. And you weren't involved in 3 any redesign that may have happened?</p> <p>4 A. That is correct.</p> <p>5 Q. You just told them what your 6 critiques were from a surgical 7 standpoint?</p> <p>8 A. That would be correct.</p> <p>9 Q. Because you're a trained 10 surgeon?</p> <p>11 A. Yes. That would be correct.</p> <p>12 Q. Okay. You've never worked 13 with any pharmaceutical device 14 manufacturers in their -- strike that.</p> <p>15 Have you ever worked with 16 any pharmaceutical device manufacturers 17 to assist them in their communications 18 with the FDA?</p> <p>19 A. No, I have not.</p> <p>20 Q. Do you have any expertise in 21 the area of FDA regulation of pharma -- 22 medical devices?</p> <p>23 A. No, I do not.</p> <p>24 Q. Okay. Do you hold yourself</p>	<p style="text-align: right;">Page 105</p> <p>1 A. As a surgeon, I read those 2 labels. I am familiar with what they 3 usually contain, but am I an expert in 4 the regulations of what gets put into 5 those inserts?</p> <p>6 Q. Yes.</p> <p>7 A. Legally, no. I'm not.</p> <p>8 Q. So you're not familiar with 9 what the FDA regulations are for the 10 standards of what must be conveyed in a 11 medical device's warning label?</p> <p>12 MR. MORIARTY: Objection. 13 Go ahead.</p> <p>14 A. Repeat the question again. 15 Sorry.</p> <p>16 Q. Why don't I just rephrase 17 it. I think it got kind of long.</p> <p>18 A. Okay.</p> <p>19 Q. Are you familiar with the 20 FDA regulations for what information is 21 required to be in a medical device label?</p> <p>22 A. Not what is required to be.</p> <p>23 Q. Right. Are you familiar at 24 all with what Ethicon's internal</p>

<p style="text-align: right;">Page 106</p> <p>1 standards were for the information that 2 should be conveyed in the Prolift's 3 label?</p> <p>4 A. I don't think I am, no.</p> <p>5 Q. Do you have any information 6 about what Ethicon's regulatory affairs 7 department believed should be in the 8 label for the Prolift device?</p> <p>9 A. I do not think so.</p> <p>10 Q. You don't intend to offer 11 any opinions in this case as to whether 12 Ethicon met its own internal standards 13 for labeling?</p> <p>14 A. That is correct.</p> <p>15 Q. Because you don't know what 16 those standards are?</p> <p>17 A. I'm not familiar with what 18 they are in their entirety.</p> <p>19 Q. Am I correct that you're not 20 an expert in clinical study design?</p> <p>21 A. That is correct. I am not a 22 statistician, but I am familiar with what 23 we read in journals and, generally 24 speaking, different types of studies.</p>	<p style="text-align: right;">Page 108</p> <p>1 repair surgeries are you doing a week?</p> <p>2 MR. MORIARTY: You mean now, 3 Kila?</p> <p>4 MS. BALDWIN: Now.</p> <p>5 THE WITNESS: Okay. Now, 6 about two. It depends on the 7 week. I'm in solo practice, so 8 I'm not in --</p> <p>9 BY MS. BALDWIN:</p> <p>10 Q. Let's just do it maybe per 11 month now on average?</p> <p>12 A. Okay. Okay. It depends. I 13 would say, on average, eight a month 14 excluding slings.</p> <p>15 Q. Right.</p> <p>16 A. Okay.</p> <p>17 Q. If we included slings, how 18 many?</p> <p>19 A. Probably -- some of them 20 will have both, so an extra maybe three 21 or four. Like I said, some of them will 22 have both, pelvic floor and slings.</p> <p>23 Q. So some are between 8 to 11 24 pelvic floor repair surgeries per month</p>
<p style="text-align: right;">Page 107</p> <p>1 Q. You're familiar with what 2 clinical studies are?</p> <p>3 A. I have some familiarity, 4 yes.</p> <p>5 Q. How do you define clinical 6 study?</p> <p>7 A. Patients -- patient involved 8 studies.</p> <p>9 Q. How do you define 10 preclinical study?</p> <p>11 A. I don't.</p> <p>12 Q. Do you know what a 13 preclinical study is?</p> <p>14 A. I'm not quite sure.</p> <p>15 Q. Okay. Do you have any 16 expertise in correlating preclinical 17 studies on medical devices to how a 18 device would perform in the human body?</p> <p>19 A. No, I do not.</p> <p>20 Q. Doctor, do you know 21 approximately how many patients you've 22 implanted a Prolift in?</p> <p>23 A. Over 150 to 160.</p> <p>24 Q. And how many pelvic floor</p>	<p style="text-align: right;">Page 109</p> <p>1 now?</p> <p>2 A. I think so.</p> <p>3 Q. Has that number changed over 4 time?</p> <p>5 A. Yes, it has.</p> <p>6 Q. Okay. How so?</p> <p>7 A. As I dropped obstetrics, my 8 patient population also changed and 9 reputation, I'm doing more now.</p> <p>10 Q. Okay. Back when you were 11 trained on the Prolift, and I think you 12 told me you were trained in 2005. Am I 13 right on that?</p> <p>14 A. Yes.</p> <p>15 Q. How many pelvic floor repair 16 surgeries were you doing per month then 17 of any type?</p> <p>18 A. Probably half that number.</p> <p>19 Q. So maybe four to five per 20 month?</p> <p>21 A. Yes. That is possible.</p> <p>22 Q. Do you know what Ethicon's 23 standards were for the physicians who 24 should be invited to attend the Prolift</p>

<p style="text-align: right;">Page 110</p> <p>1 training?</p> <p>2 A. No, I do not.</p> <p>3 Q. Okay. Has anyone talked</p> <p>4 with you about whether Ethicon had any</p> <p>5 standards for the type of physicians that</p> <p>6 were appropriate for the use of the</p> <p>7 Prolift implant?</p> <p>8 A. No. Nobody's talked to me</p> <p>9 about that.</p> <p>10 Q. Okay.</p> <p>11 A. That I can recall.</p> <p>12 Q. Did you see any documents in</p> <p>13 that regard?</p> <p>14 A. Not for that.</p> <p>15 Q. Okay. You paused there. Is</p> <p>16 there something else that you did see</p> <p>17 that's relevant?</p> <p>18 A. I saw a pathway physician</p> <p>19 who had done mesh surgery and then that</p> <p>20 would be kind of -- what kind of training</p> <p>21 they would need to go to versus surgeons</p> <p>22 who had not used pelvic mesh before, so I</p> <p>23 recall seeing that in the documents that</p> <p>24 were forwarded to me recently.</p>	<p style="text-align: right;">Page 112</p> <p>1 marked for identification as</p> <p>2 Drolet Exhibit No. 10.)</p> <p>3 BY MS. BALDWIN:</p> <p>4 Q. And, Doctor, this is all the</p> <p>5 materials that you reviewed in connection</p> <p>6 with this litigation?</p> <p>7 A. No.</p> <p>8 MR. MORIARTY: Objection.</p> <p>9 A. No.</p> <p>10 MR. MORIARTY: Go ahead.</p> <p>11 Q. I'm sorry. Are there other</p> <p>12 materials that aren't listed here that</p> <p>13 you've reviewed?</p> <p>14 A. Yes.</p> <p>15 Q. And what are those?</p> <p>16 A. There was a list, wasn't it,</p> <p>17 e-mailed, an attachment yesterday --</p> <p>18 Q. Okay.</p> <p>19 A. -- of articles that was</p> <p>20 e-mailed. I got a copy of it.</p> <p>21 Q. Okay. So that e-mail list,</p> <p>22 those articles that were on that list?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. Okay. So you saw something</p> <p>2 about a pathway about physicians who had</p> <p>3 done mesh before and the training they</p> <p>4 would need versus physicians who hadn't</p> <p>5 done mesh implants before?</p> <p>6 A. Yes.</p> <p>7 Q. But you haven't seen</p> <p>8 anything about the internal standards</p> <p>9 that Ethicon had --</p> <p>10 A. Not that I recall.</p> <p>11 Q. Let me just finish the</p> <p>12 question.</p> <p>13 A. I'm sorry.</p> <p>14 Q. You haven't seen anything</p> <p>15 about the internal standards Ethicon had</p> <p>16 for which physicians were appropriate for</p> <p>17 Prolift training whatsoever?</p> <p>18 A. That would be correct.</p> <p>19 Q. Okay. While we're here, why</p> <p>20 don't we just go over your reliance list.</p> <p>21 I think I already gave this to Matt.</p> <p>22 MS. BALDWIN: We'll mark</p> <p>23 this as Exhibit-10.</p> <p>24 (Whereupon, a document was</p>	<p style="text-align: right;">Page 113</p> <p>1 A. They're not included in this</p> <p>2 that I can see.</p> <p>3 Q. Okay.</p> <p>4 MR. MORIARTY: We can put</p> <p>5 those in the list and substitute</p> <p>6 for Exhibit-10 later if you</p> <p>7 prefer.</p> <p>8 MS. BALDWIN: It doesn't</p> <p>9 matter. You gave them to me, and</p> <p>10 I thought I had them printed out,</p> <p>11 but I just had the cover letter,</p> <p>12 but that was just that list of</p> <p>13 articles that you e-mailed me</p> <p>14 yesterday. It's not included in</p> <p>15 this version?</p> <p>16 MR. MORIARTY: Correct.</p> <p>17 They were in her report.</p> <p>18 MS. BALDWIN: Right.</p> <p>19 MR. MORIARTY: They just</p> <p>20 weren't in the reliance list.</p> <p>21 MS. BALDWIN: Okay.</p> <p>22 BY MS. BALDWIN:</p> <p>23 Q. So that was just that list</p> <p>24 of articles is the only thing that is</p>

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1 missing from this reliance list, correct?
 2 A. From what I can tell, yes.
 3 Q. Okay. So going through
 4 this, understanding that there's a list
 5 of articles in addition to the stuff
 6 that's listed here --
 7 A. Yes.
 8 Q. -- that would be the world
 9 of materials that you've reviewed in
 10 connection with this case, correct?
 11 A. That would be correct.
 12 Q. Okay. I'm just trying to
 13 get an understanding of all the documents
 14 you reviewed, so it would be this list
 15 and the e-mail that was sent, correct?
 16 A. Correct.
 17 Q. Okay. And looking at this
 18 list, the first one, two, three pages are
 19 the medical literature you reviewed,
 20 correct?
 21 A. Yes.
 22 Q. Okay. Do you know if you
 23 reviewed all of the medical literature
 24 that was reviewed by Dr. Ann Weber?

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1 A. No. I did not make a
 2 cross-reference.
 3 Q. Okay. Do you know if you
 4 reviewed all of the literature that was
 5 read by Dr. Ralph Zipper?
 6 A. No. I did not make that
 7 cross-reference.
 8 Q. Did you make a
 9 cross-reference between your literature
 10 references and the references of the
 11 other defense experts identified in this
 12 case?
 13 A. No, I did not.
 14 Q. Okay. Going to page 4, it
 15 says production materials?
 16 A. Which four?
 17 Q. The fourth page in here it
 18 starts.
 19 A. Yes.
 20 Q. Okay. And these are all, I
 21 guess, presumably the Ethicon documents
 22 that you were provided?
 23 A. Yes. Some of them are
 24 repeats.

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1 Q. Okay. So some of these
 2 things here are duplicates?
 3 A. I would assume. I did not
 4 see all of those. I read the peer
 5 reviewed. Some of these videos came to
 6 me via e-mail, so there were four that
 7 were -- four videos via e-mail that were
 8 provided to me. One of them would not
 9 open at all.
 10 Q. So you don't know that you
 11 reviewed word-for-word everything that
 12 was on here or every single video that
 13 was listed on here?
 14 A. I did not review the dozens
 15 of these videos and if any of them are
 16 repeats, so there's no way for me to
 17 tell.
 18 Q. Okay. Well, let's look
 19 at -- the first page has a bunch of
 20 anatomy videos, but let's go to the next
 21 page, the second page of production
 22 materials where it lists patient
 23 brochures?
 24 A. Yes.

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1 Q. And there's one, two, three,
 2 four, five patient brochures. Did you
 3 review five copies of the patient
 4 brochure?
 5 A. I thought there were only
 6 four.
 7 Q. Okay.
 8 A. So I don't know in these
 9 numbers here where it says F, dash, mesh,
 10 dash, and all of these numbers, if these
 11 are duplicates or not. I reviewed the
 12 materials that were provided to me by
 13 Ethicon.
 14 Q. Okay. Can you tell me what
 15 years the patient brochures you actually
 16 recall reviewing?
 17 A. Some of them were early
 18 2005, 2006. Some were 2000, I think,
 19 eight or 2009. I don't recall off the
 20 top of my head.
 21 Q. Okay. When you reviewed
 22 those patient brochures, were you given
 23 information about when those patient
 24 brochures were actually distributed into

<p style="text-align: right;">Page 118</p> <p>1 the market?</p> <p>2 A. No, but I had -- our sales</p> <p>3 rep would come into the office, David</p> <p>4 Pursel, and change these brochures and</p> <p>5 update them, I would guess.</p> <p>6 Q. Okay. So did you keep track</p> <p>7 of when they changed the brochures so you</p> <p>8 could look in the context of this</p> <p>9 litigation as to when the brochures went</p> <p>10 onto the market?</p> <p>11 A. Well, back in 2005 or 2008 I</p> <p>12 wasn't involved in litigation. So</p> <p>13 whenever they came out with a new</p> <p>14 brochure, the rep would come in and</p> <p>15 change the brochure, I would assume.</p> <p>16 Q. Right.</p> <p>17 A. In a timely fashion.</p> <p>18 Q. Right. So my question is,</p> <p>19 in this case you've offered some opinions</p> <p>20 about the labeling of the Prolift</p> <p>21 product. And what I want to know is, the</p> <p>22 brochures that you reviewed in connection</p> <p>23 with this case, were you given any actual</p> <p>24 concrete information about when those</p>	<p style="text-align: right;">Page 120</p> <p>1 me.</p> <p>2 Q. Okay. What device did Mrs.</p> <p>3 Hammons have implanted?</p> <p>4 A. She had a Prolift, an</p> <p>5 anterior Prolift.</p> <p>6 Q. So not a Prolift+M, correct?</p> <p>7 A. That would be correct.</p> <p>8 Q. Okay. Going down on this</p> <p>9 list then, there's the Prolift IFU and</p> <p>10 there's one, two, three, four, five, six,</p> <p>11 seven, seven listed with no dates and</p> <p>12 then two more listed for the Prolift IFU</p> <p>13 for 2004 and 2009.</p> <p>14 Did you review all of those</p> <p>15 different IFUs?</p> <p>16 A. The first that have no</p> <p>17 dates, I don't know which one they</p> <p>18 correspond to, but the 2004 and 2009 I</p> <p>19 did for sure. The other ones I don't</p> <p>20 know what they correspond to.</p> <p>21 Q. Okay. The Prolift IFU dated</p> <p>22 2004, do you know what date that was</p> <p>23 released on the market?</p> <p>24 A. No, I do not.</p>
<p style="text-align: right;">Page 119</p> <p>1 were released into the marketplace?</p> <p>2 A. No. I just looked at the</p> <p>3 dates --</p> <p>4 Q. Okay.</p> <p>5 A. -- on the brochures.</p> <p>6 Q. Right. And that's it. You</p> <p>7 don't know when they were actually</p> <p>8 released into the market?</p> <p>9 A. I couldn't tell for sure.</p> <p>10 Q. Okay. And then let's go</p> <p>11 down on this list. There's a list of</p> <p>12 Prolift+M professional education slide</p> <p>13 decks and videos. Did you review all of</p> <p>14 those?</p> <p>15 A. No. I -- like I said, I</p> <p>16 don't know if there are duplicates in</p> <p>17 here. They did provide me with what --</p> <p>18 the Prolift+M education slide deck, a</p> <p>19 copy of that, but -- and I reviewed that.</p> <p>20 Q. But you don't know that you</p> <p>21 reviewed all of these that are listed</p> <p>22 here?</p> <p>23 A. I do not know exactly which</p> <p>24 one corresponded with the copy they sent</p>	<p style="text-align: right;">Page 121</p> <p>1 Q. The Prolift IFU dated 2009,</p> <p>2 do you know what date that was released</p> <p>3 on the market?</p> <p>4 A. No, I do not exactly.</p> <p>5 Q. Okay. And then there's</p> <p>6 Prolift professional educational videos,</p> <p>7 and there's a whole series of those</p> <p>8 listed. Did you review all of those</p> <p>9 videos?</p> <p>10 A. Not all of those. As I</p> <p>11 said, I reviewed three videos that were</p> <p>12 sent to me. I had a USB port drive that</p> <p>13 I couldn't open, and it wouldn't open.</p> <p>14 So they e-mailed me four videos, one in</p> <p>15 one e-mail and three as e-mail attachment</p> <p>16 and another e-mail. I could not open the</p> <p>17 first one, but I could open the other</p> <p>18 three.</p> <p>19 Q. Okay. Did you see any</p> <p>20 e-mails to or from anyone at Ethicon</p> <p>21 medical affairs about the design of the</p> <p>22 Prolift device?</p> <p>23 A. I can't recall if I did or</p> <p>24 not.</p>

<p style="text-align: right;">Page 122</p> <p>1 Q. Okay. Did you see any 2 e-mails to or from anyone at Ethicon's 3 regulatory department about the Prolift? 4 A. I think some e-mails were 5 contained, but I don't recall from whom, 6 to whom and about what subject exactly. 7 Q. Okay. Looking at your list, 8 I don't see any e-mails listed. Do you 9 have any recollection of any e-mails you 10 read? 11 A. I remember that there were 12 e-mails or copies of or they may have 13 been copies of letters, but I didn't use 14 this for my opinion, so there may not be 15 included in here. 16 Q. The e-mails that you saw 17 might not be included on this list. Is 18 that what you're telling me? 19 A. Well, I don't -- do you 20 see -- they might be in here. 21 Q. Let me ask you this 22 question: How was this document created 23 that's your reliance list? 24 MR. MORIARTY: Objection.</p>	<p style="text-align: right;">Page 124</p> <p>1 A. Not that I recall. 2 Q. Do you recall any e-mails 3 whatsoever about anyone at Ethicon about 4 the labeling of the Prolift? 5 A. No. I don't recall. 6 Q. Okay. Did you see any 7 e-mails referring or relating at all to 8 the French surgeons who created the 9 Prolift? 10 A. I don't know if it was 11 e-mail or not. I don't think so. 12 Q. Doctor, if we go to the next 13 page here, under publicly available? 14 A. Yes. 15 Q. Who found these publicly 16 available sources? 17 A. Ethicon did. 18 Q. Okay. And did they send 19 them to you? 20 A. Yes, they did. 21 Q. So it's not research you did 22 on your own? 23 A. Some of them I would have 24 seen in the course of my practice.</p>
<p style="text-align: right;">Page 123</p> <p>1 Go ahead. 2 A. Ethicon. Ethicon did. 3 Q. Okay. And you've already 4 told me you don't believe you've seen 5 every single document that's listed on 6 here? 7 A. I have not seen all of the 8 videos and education slide decks, and I 9 may have, but I don't have a number to 10 compare what all of these are. So if 11 they're all the same version but numbered 12 differently, then yes. I would have seen 13 them, but if there were subtleties, I do 14 not have any way to know which is which. 15 Q. And then, Doctor, a moment 16 ago we were talking about e-mails. Do 17 you recall seeing any e-mails from anyone 18 at Ethicon internally about the design of 19 the Prolift? 20 A. No. 21 Q. Do you recall any e-mails 22 whatsoever from anyone at Ethicon 23 internally about the warnings on the 24 Prolift?</p>	<p style="text-align: right;">Page 125</p> <p>1 Q. But outside the course of 2 your practice, did you go out and 3 research to find these things yourself? 4 A. Not in the last two months. 5 Q. What about before the last 6 two months? 7 A. Well, in 2011 when the FDA 8 health notification came out, I know I 9 went to my computer and read it. 10 Q. In the context of this 11 litigation, I'm asking? 12 A. Right. 13 Q. Did you go out and do any 14 research yourself in the context of this 15 litigation for the opinions that you 16 offered in connection with this case? 17 A. No, I did not. 18 Q. You relied on the documents 19 that were provided to you by Ethicon? 20 A. Actually, yes, I did. I saw 21 a couple of articles, and I mentioned it 22 to them that were -- that were coming 23 out, and some of them are probably in 24 here.</p>

<p style="text-align: right;">Page 126</p> <p>1 Q. You mentioned -- when you</p> <p>2 say mentioned to them, who's "them"? Is</p> <p>3 that an attorney?</p> <p>4 A. An attorney.</p> <p>5 Q. Is that someone at Ethicon?</p> <p>6 And you told them that there</p> <p>7 were articles that were coming out that</p> <p>8 you'd like to incorporate?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And did you indeed</p> <p>11 incorporate those into your opinion?</p> <p>12 A. I'm not quite sure how to</p> <p>13 answer that specifically. I think it's</p> <p>14 the body of the entire literature.</p> <p>15 Q. That's listed here?</p> <p>16 A. That's listed here.</p> <p>17 Q. And that's in that e-mail?</p> <p>18 A. And that's in that e-mail,</p> <p>19 yes.</p> <p>20 Q. Did you do any MEDLINE or</p> <p>21 PubMed searches when preparing your</p> <p>22 report?</p> <p>23 A. No, I did not.</p> <p>24 Q. Other than the couple of</p>	<p style="text-align: right;">Page 128</p> <p>1 start receiving medical records?</p> <p>2 A. No.</p> <p>3 Q. When did you start receiving</p> <p>4 medical records?</p> <p>5 A. July of 2015.</p> <p>6 Q. Did you ever ask to see the</p> <p>7 medical records before then?</p> <p>8 MR. MORIARTY: Objection.</p> <p>9 Go ahead.</p> <p>10 A. No, because even though we</p> <p>11 signed this agreement, I didn't know</p> <p>12 when -- if or when they would actually</p> <p>13 want me to be involved in a case. That</p> <p>14 only occurred at the end of June of 2015,</p> <p>15 like June 28th or June 29th, something</p> <p>16 like that.</p> <p>17 Q. Okay. That's when you were</p> <p>18 told you would actually be involved --</p> <p>19 A. Yes.</p> <p>20 Q. -- in this case?</p> <p>21 A. I was told I was going to be</p> <p>22 involved in a case, and eventually I</p> <p>23 started to receive documents.</p> <p>24 Q. Okay. When you received the</p>
<p style="text-align: right;">Page 127</p> <p>1 articles I think you said that you found</p> <p>2 yourself, did you rely on the literature</p> <p>3 that was provided to you by Ethicon?</p> <p>4 A. I relied on this list, yes.</p> <p>5 Q. That Ethicon created?</p> <p>6 A. Yes.</p> <p>7 Q. And then the literature</p> <p>8 that's on here is the literature that</p> <p>9 Ethicon sent to you?</p> <p>10 A. Yes.</p> <p>11 Q. Okay. And then if we go to</p> <p>12 the next page of the list, it's Patricia</p> <p>13 Hammons case specific, and it's all of</p> <p>14 her medical records, correct?</p> <p>15 A. All of the medical records</p> <p>16 that were provided to us.</p> <p>17 Q. Okay. When did you</p> <p>18 get -- start -- let me ask you this</p> <p>19 question: When were you retained to</p> <p>20 start working on this case?</p> <p>21 A. I signed a, if you want to</p> <p>22 call it, contract with Butler Snow May</p> <p>23 26th of 2015.</p> <p>24 Q. And at that time did you</p>	<p style="text-align: right;">Page 129</p> <p>1 documents in connection with this case,</p> <p>2 was it your understanding you were going</p> <p>3 to be asked to do a medical exam of the</p> <p>4 plaintiff?</p> <p>5 A. No.</p> <p>6 Q. Okay. When did you first</p> <p>7 learn that you were going to be asked to</p> <p>8 do a medical exam of this woman?</p> <p>9 A. Some time in August, early</p> <p>10 August.</p> <p>11 Q. At that point in early</p> <p>12 August, did you have all these medical</p> <p>13 records available to you?</p> <p>14 A. I can't recall exactly in</p> <p>15 what order they were sent, but I think I</p> <p>16 had most of the medical records by then.</p> <p>17 Q. And then if we go to the</p> <p>18 next page, it lists out depositions, and</p> <p>19 there's a list of people who were deposed</p> <p>20 specifically in connection with Ms.</p> <p>21 Hammons' case. Do you see that?</p> <p>22 A. Yes, I do.</p> <p>23 Q. Were all of those</p> <p>24 depositions, in fact, provided to you?</p>

<p style="text-align: right;">Page 130</p> <p>1 MR. MORIARTY: We missed 2 one. 3 THE WITNESS: Yeah. 4 MR. MORIARTY: Oh, no. 5 There it is. 6 THE WITNESS: It looks like 7 it is the deposition of Dr. Zipper 8 didn't arrive until later. 9 BY MS. BALDWIN: 10 Q. Okay. Are those the dates 11 there, do you believe those are the dates 12 you received the depositions? 13 A. No. 14 Q. Okay. What date did you 15 receive the depositions? 16 A. They were sent in packages 17 and boxes starting in July and August. 18 Q. Did you get the deposition 19 of Patricia Hammons before you knew you 20 would have to do a medical examination of 21 her? 22 A. I think I did. Yes, I think 23 I did. Yes. 24 Q. Okay. Did you read all of</p>	<p style="text-align: right;">Page 132</p> <p>1 employees? 2 A. No. 3 Q. Okay. Did you know that 4 Axel Arnaud was deposed in the, I guess, 5 pelvic mesh litigation? 6 A. No. 7 Q. Do you know who Axel Arnaud 8 is? 9 A. I've heard -- or I've read 10 his name in some documents but... 11 Q. Okay. Do you know that he 12 was the scientific director of Gynecare 13 Europe when Prolift was being designed? 14 A. I recall reading that. 15 Q. Okay. Would you like to 16 know what he said about the design of the 17 Prolift? 18 MR. MORIARTY: Objection. 19 A. Do you want to read it? 20 Q. Well, I'm asking you, do you 21 think that would be important when you 22 developed your opinions? 23 A. It would be an element, so I 24 would want to know.</p>
<p style="text-align: right;">Page 131</p> <p>1 these depositions? 2 A. Yes, I did. 3 Q. Okay. I notice missing from 4 that list were the depositions of the 5 Ethicon company witnesses. Did you read 6 any of the depositions of any of 7 Ethicon's employees? 8 A. There was one they sent me. 9 It's in one of those suitcases. It was 10 the rep that was associated with Dr. 11 Baker. 12 Q. So would that be the 13 deposition of Brian Heckman? 14 A. That could have been. I 15 just don't recall the name. 16 Q. If I tell you that Brian 17 David Heckman was the sales rep who 18 detailed Dr. Baker that was deposed in 19 connection with this case, do you have 20 any reason to disagree with that? 21 A. No, I do not. 22 Q. Okay. Other than reading 23 the deposition of Brian Heckman, did you 24 read the depositions of any other Ethicon</p>	<p style="text-align: right;">Page 133</p> <p>1 Q. Right. And you didn't have 2 that, correct? 3 A. Not that I specifically can 4 recall. 5 Q. Do you know who Scott 6 Ciarroca is? 7 A. No, I do not. 8 Q. Okay. He was a principal 9 engineer at Gynecare within Ethicon's 10 research and development department that 11 led the exploratory program that led to 12 the development of Prolift. 13 Would you have liked to have 14 known what he said about the development 15 of the Prolift? 16 MR. MORIARTY: Objection. 17 Go ahead. 18 A. Along with all of this, yes. 19 Q. But you couldn't do that 20 because you weren't provided it, correct? 21 A. Not that I can specifically 22 recall. I was provided with two 23 suitcases and a box of documentations to 24 read before August 10th, before my report</p>

<p style="text-align: right;">Page 134</p> <p>1 was due, and so there may be some 2 documents in there that I can't 3 specifically recall. 4 Q. You got the documents in 5 kind of a quick time frame? 6 A. That would be correct. 7 Q. And you had to read them 8 rather quickly to get ready for the exam? 9 A. For what exam? 10 Q. The medical exam you 11 performed -- 12 A. Oh, yes. 13 Q. -- in connection with this 14 case? 15 A. I had to read them quickly 16 in order to produce my report. 17 Q. Right. 18 A. Right. 19 Q. And then you shortly 20 thereafter had to do a medical exam? 21 A. Then I did, yes. 22 Q. Right. So you had a quick 23 turnaround time that you had to go 24 through these documents?</p>	<p style="text-align: right;">Page 136</p> <p>1 Q. At the time when they put 2 Prolift on the market, were you aware of 3 what complications Ethicon knew about? 4 A. None other than what my 5 surgical experience and the use of 6 Gynemesh PS that I had used a few times. 7 Q. Well, your surgical 8 experience certainly couldn't get you 9 inside the brains of the medical affairs 10 department at Ethicon, correct? 11 A. That would be correct. 12 Q. And your surgical experience 13 certainly couldn't get you inside the 14 brains of the design team at Ethicon, 15 correct? 16 A. That is correct. 17 Q. And your surgical experience 18 certainly couldn't get you inside the 19 brains of the folks who wrote the 20 labeling for the Prolift, correct? 21 A. That would be correct. 22 Q. And your experience with the 23 Gynemesh certainly couldn't give you any 24 of those things either, correct?</p>
<p style="text-align: right;">Page 135</p> <p>1 A. That would be correct. 2 Q. All right. You also didn't 3 get the deposition of James Hart? 4 A. I don't -- I don't think so. 5 Q. He was the vice president of 6 medical operations at Ethicon when the 7 Prolift was marketed. Would you have 8 liked to have known what he said about 9 the Prolift? 10 MR. MORIARTY: Objection. 11 A. Again, I would have liked to 12 see it in this context. 13 Q. Okay. Now, you offered a 14 lot of opinions about the warnings of the 15 Prolift product in your report? 16 A. I offered some opinions, 17 yes. 18 Q. Are you aware of what 19 Ethicon knew at the time they put Prolift 20 on the market the complications actually 21 were? 22 MR. MORIARTY: Objection. 23 Go ahead. 24 A. At the time or now?</p>	<p style="text-align: right;">Page 137</p> <p>1 A. Give me an idea, but 2 correct. I would not be in those brains. 3 Q. Right. You would not know 4 what Ethicon knew about the complications 5 of the Prolift when it was put on the 6 market? 7 A. That would be correct. 8 Q. And you were not provided 9 the depositions that you can recall of 10 the company witnesses -- 11 A. Correct. 12 Q. -- like the vice president 13 of medical operations, James Hart? 14 A. That would be correct. 15 Q. Okay. Would it affect your 16 opinion that James Hart was aware that 17 the medical affairs department at Ethicon 18 knew that with the Prolift some women 19 would have life-changing complications 20 like pain, dyspareunia and erosions that 21 were not easily resolved and may be 22 completely untreatable? 23 MR. MORIARTY: Objection. 24 Go ahead.</p>

<p style="text-align: right;">Page 138</p> <p>1 A. Would I have wanted to know?</p> <p>2 Q. Yeah. That Ethicon knew</p> <p>3 this at the time it put the Prolift on</p> <p>4 the market?</p> <p>5 A. I think I would -- I think I</p> <p>6 would have wanted to know if they knew</p> <p>7 something that was clinically relevant,</p> <p>8 yes.</p> <p>9 Q. Because it should have been</p> <p>10 included in the labeling?</p> <p>11 MR. MORIARTY: Objection.</p> <p>12 Go ahead.</p> <p>13 A. I don't know what is -- by</p> <p>14 regulation, what should go into a</p> <p>15 labeling.</p> <p>16 Q. Because you're not a</p> <p>17 labeling expert, correct?</p> <p>18 A. I don't write the rules that</p> <p>19 says what needs to be put on labels.</p> <p>20 That would be correct.</p> <p>21 Q. So you're not familiar with</p> <p>22 the standards for labeling, correct?</p> <p>23 MR. MORIARTY: Objection.</p> <p>24 Go ahead.</p>	<p style="text-align: right;">Page 140</p> <p>1 product, those should be included in the</p> <p>2 labeling, correct?</p> <p>3 A. One would want to, yes.</p> <p>4 Q. As a surgeon, you would want</p> <p>5 a medical device manufacturer to do that?</p> <p>6 A. If it is clinically relevant</p> <p>7 and important, yes.</p> <p>8 Q. You didn't get the</p> <p>9 deposition of Piet Hinoul?</p> <p>10 A. No. I don't think I did.</p> <p>11 Q. You didn't get the</p> <p>12 deposition of Jorge Holste?</p> <p>13 A. I did not.</p> <p>14 Q. While we're on him, he</p> <p>15 conducted some histopathological</p> <p>16 evaluations for Ethicon very early on.</p> <p>17 Were you aware that Ethicon</p> <p>18 was looking at other meshes beyond the</p> <p>19 Prolene mesh that the Prolift is made of?</p> <p>20 MR. MORIARTY: Objection.</p> <p>21 Go ahead.</p> <p>22 A. Not at the time, no.</p> <p>23 Q. Okay. Were you aware that</p> <p>24 there were some internally at Ethicon</p>
<p style="text-align: right;">Page 139</p> <p>1 A. I don't have the list of</p> <p>2 what is standard or not. That would be</p> <p>3 correct.</p> <p>4 Q. Let me just ask this</p> <p>5 question. Is it your belief that a</p> <p>6 company should put the complications it's</p> <p>7 aware of in its labeling?</p> <p>8 MR. MORIARTY: Objection.</p> <p>9 Go ahead.</p> <p>10 A. I think a company should put</p> <p>11 in what is specifically and clinically</p> <p>12 relevant to their product; but as a</p> <p>13 surgeon that is going to implant that</p> <p>14 product, there are inherent risks of</p> <p>15 surgeries that I don't need a company to</p> <p>16 remind us of all of those risks as well.</p> <p>17 Q. Right. There's inherent</p> <p>18 risks of any surgery. You know that as a</p> <p>19 surgeon, correct?</p> <p>20 A. Yes, I do.</p> <p>21 Q. If a company, however, is</p> <p>22 aware of novel morbidities or novel</p> <p>23 complications with its product that are</p> <p>24 specific and clinically relevant to its</p>	<p style="text-align: right;">Page 141</p> <p>1 felt that there were better options other</p> <p>2 than the mesh that the Prolift is made</p> <p>3 of?</p> <p>4 MR. MORIARTY: Objection.</p> <p>5 Go ahead.</p> <p>6 A. No. Not at the time, no.</p> <p>7 Q. Okay. Are you aware now?</p> <p>8 A. Well, I read about Vipro,</p> <p>9 that they were -- somebody was looking at</p> <p>10 that in the French group, and they</p> <p>11 decided against it. And there is another</p> <p>12 mesh, and I can't recall the name this</p> <p>13 second, that I had never heard of until I</p> <p>14 read it in those documents.</p> <p>15 Q. The ones you got very</p> <p>16 recently?</p> <p>17 A. Correct.</p> <p>18 Q. And you got those after you</p> <p>19 authored report?</p> <p>20 A. After I altered my report?</p> <p>21 Q. Authored, wrote your report?</p> <p>22 A. No. Most of these documents</p> <p>23 I got before I wrote my report.</p> <p>24 Q. Okay. I'm sorry. I thought</p>

<p style="text-align: right;">Page 142</p> <p>1 you told me there were some company 2 documents you got after you wrote your 3 report. Maybe I misunderstood. 4 A. I have gotten other records 5 afterwards and depositions afterwards, 6 but most of the company Ethicon Prolift 7 materials I received before I authored my 8 report in August of 2015. 9 Q. Okay. Did you get any of 10 the histopathological evaluations that 11 Jorge Holste did? 12 A. I don't specifically recall. 13 Q. Okay. Do you know who Dr. 14 Klinge is? 15 A. No, I do not. 16 Q. Did you read his expert 17 report? 18 A. K-L -- 19 Q. K-L-I-N-G-E? 20 A. Yes. 21 Q. Okay. Did you read his 22 report? 23 A. Yes, I did. 24 Q. Did you read any of the</p>	<p style="text-align: right;">Page 144</p> <p>1 concerns with were about the design of 2 the Prolift before it went onto market? 3 A. Not at the time. 4 Q. Not at what time? 5 A. Not in 2004 or 2005. 6 Q. Would it surprise you to 7 learn that they were concerned about the 8 shrinkage of the mesh and its ability to 9 lead to pain and permanent dyspareunia? 10 MR. MORIARTY: Objection. 11 Go ahead. 12 A. I don't know if that would 13 surprise me or not because of experiences 14 with Gynemesh and other biological meshes 15 in the pelvic floor, there's pain and 16 dyspareunia, you know, associated with 17 any surgery in the pelvic floor. 18 Q. Right, but if Ethicon felt 19 that the type of pain and dyspareunia it 20 saw with the Prolift with the contraction 21 of the mesh was novel or something 22 different because by definition they 23 thought this was a revolutionary surgical 24 procedure, would it surprise you to know</p>
<p style="text-align: right;">Page 143</p> <p>1 research that he did for Ethicon about 2 its meshes? 3 A. Did I read his research? 4 No. 5 Q. Okay. Did you watch the 6 video of his deposition? 7 A. No. I did not see any 8 deposition videos. 9 Q. Were you provided with a 10 transcript of his deposition? 11 A. No. I was provided with, I 12 think it was an expert report. 13 Q. Okay. Do you know who 14 Kimberly Hunsicker is? 15 A. I do not. 16 Q. Do you know who Scott Jones 17 is? 18 A. No. I do not. 19 Q. Do you know who Gene 20 Kammerer is? 21 A. No, I do not. 22 Q. Okay. Do you have any 23 knowledge about the French surgical group 24 who designed the Prolift about what their</p>	<p style="text-align: right;">Page 145</p> <p>1 they thought that? 2 MR. MORIARTY: Objection. 3 Go ahead. 4 A. I would have been 5 interested. Would it surprise? I don't 6 know what you mean by surprise, you know. 7 Q. Were you ever provided 8 information that Ethicon knew that there 9 were novel morbidities associated with 10 the Prolift different from other pelvic 11 floor repair surgeries? 12 A. Not at the time. 13 Q. What time? 14 A. Well, 2005 when I started to 15 do that. 16 Q. Right. Do you know it now? 17 A. Do I know what now? 18 Q. Do you know now that they 19 knew in 2005 that there were novel 20 morbidities associated with the Prolift 21 different from other pelvic floor repair 22 surgeries? 23 MR. MORIARTY: Objection. 24 A. Not in that wording, but I</p>

<p style="text-align: right;">Page 146</p> <p>1 read the French study, and I read the</p> <p>2 documents that Ethicon provided.</p> <p>3 Q. So you read the French</p> <p>4 clinical study?</p> <p>5 A. Yes.</p> <p>6 Q. The one that didn't meet its</p> <p>7 end point?</p> <p>8 A. I've read the French TVM</p> <p>9 study, yes.</p> <p>10 Q. The one that didn't meet its</p> <p>11 end point, are you aware of that?</p> <p>12 A. I am aware of what the</p> <p>13 conclusions are, yes.</p> <p>14 Q. Did you read the United</p> <p>15 States one?</p> <p>16 A. I did.</p> <p>17 Q. Okay. Do you know what the</p> <p>18 conclusions are?</p> <p>19 A. Not off the top of my head,</p> <p>20 but...</p> <p>21 Q. Do you know what mesh</p> <p>22 contraction rate Ethicon was aware of in</p> <p>23 2005?</p> <p>24 A. No, I did not.</p>	<p style="text-align: right;">Page 148</p> <p>1 Q. If the mesh shrinks 30 to 50</p> <p>2 percent and women are experiencing severe</p> <p>3 complications with that, is that</p> <p>4 clinically significant to you?</p> <p>5 MR. MORIARTY: Objection.</p> <p>6 Go ahead.</p> <p>7 A. If that was the case, then</p> <p>8 that would be a relevant -- clinically</p> <p>9 relevant fact, yes.</p> <p>10 Q. If Ethicon had knowledge</p> <p>11 that its mesh was shrinking -- shrinking</p> <p>12 leading to clinically -- strike that.</p> <p>13 Let me start over.</p> <p>14 If Ethicon had knowledge</p> <p>15 that the mesh used in the Prolift was</p> <p>16 shrinking causing severe consequences to</p> <p>17 women, is that something it should have</p> <p>18 shared in its labeling with the surgeons</p> <p>19 who were going to implant its mesh?</p> <p>20 MR. MORIARTY: Objection.</p> <p>21 Go ahead.</p> <p>22 A. It depends.</p> <p>23 Q. On what?</p> <p>24 A. On the severity and the</p>
<p style="text-align: right;">Page 147</p> <p>1 Q. Okay. Do you have any idea</p> <p>2 what an acceptable contraction rate would</p> <p>3 be for pelvic mesh?</p> <p>4 A. I don't know of a standard</p> <p>5 of what is an acceptable contraction</p> <p>6 rate.</p> <p>7 Q. As a surgeon who implants</p> <p>8 pelvic floor mesh or has done in the</p> <p>9 past, do you have a rate in your head</p> <p>10 that would be an acceptable contraction</p> <p>11 rate for the safety and health of your</p> <p>12 patients?</p> <p>13 A. It would have to be</p> <p>14 clinically relevant. It depends on the</p> <p>15 symptoms.</p> <p>16 Q. Explain that.</p> <p>17 A. Well, if I have a mesh that</p> <p>18 contracts by 50 percent and all of the</p> <p>19 patients are doing well, is it clinically</p> <p>20 relevant? No. Does the mesh contract by</p> <p>21 50 percent? Yes. But if there's no</p> <p>22 problem associated with it, the number or</p> <p>23 the percentage of shrinkage may not</p> <p>24 really matter.</p>	<p style="text-align: right;">Page 149</p> <p>1 frequency.</p> <p>2 Q. Okay. So severity and</p> <p>3 frequency are very important for a doctor</p> <p>4 in understanding the risks of a product?</p> <p>5 A. They are important in the</p> <p>6 grand scheme of things, yes.</p> <p>7 Q. Right. A doctor would want</p> <p>8 to know how severe the complications can</p> <p>9 be?</p> <p>10 A. Yes.</p> <p>11 Q. And a doctor would like to</p> <p>12 know how frequently those complications</p> <p>13 can arise?</p> <p>14 A. Yes, but it also depends on</p> <p>15 the patient as well.</p> <p>16 Q. Because when a doctor has a</p> <p>17 discussion with a patient recommending a</p> <p>18 surgical option, they have to discuss</p> <p>19 things like severity and frequency of the</p> <p>20 complications, correct?</p> <p>21 A. Yes. That should be</p> <p>22 correct.</p> <p>23 Q. And also important to that</p> <p>24 discussion would be the ability to treat</p>

<p style="text-align: right;">Page 150</p> <p>1 the complications, correct?</p> <p>2 A. Are you asking me</p> <p>3 hypothetically what should doctors do?</p> <p>4 Q. I'm asking you when you</p> <p>5 counsel patients or make recommendations</p> <p>6 for surgery, do you counsel your patients</p> <p>7 if, boy, these are the side effects but</p> <p>8 they are treatable versus these are the</p> <p>9 side effects and they're not treatable?</p> <p>10 A. Yes. I do have that type of</p> <p>11 discussion.</p> <p>12 Q. As a surgeon, that's</p> <p>13 important to you to have that discussion</p> <p>14 with your patients, correct?</p> <p>15 A. That is important to me,</p> <p>16 yes.</p> <p>17 Q. Right. So the severity, the</p> <p>18 frequency and the ability to treat</p> <p>19 complications is important to know for</p> <p>20 you as a surgeon when making</p> <p>21 recommendations for surgery to your</p> <p>22 patients?</p> <p>23 A. Correct.</p> <p>24 Q. And I think you'd hope as a</p>	<p style="text-align: right;">Page 152</p> <p>1 MR. MORIARTY: When it's</p> <p>2 convenient, we ought to just put</p> <p>3 in the call for that.</p> <p>4 MS. BALDWIN: Why don't we</p> <p>5 take a quick break because Lisa is</p> <p>6 getting me water and doesn't want</p> <p>7 to be on the video.</p> <p>8 THE VIDEOGRAPHER: The time</p> <p>9 is now 12:26, and we are going off</p> <p>10 camera.</p> <p>11 (A short break was taken.)</p> <p>12 THE VIDEOGRAPHER: The time</p> <p>13 is now 12:33, and we are back on</p> <p>14 camera.</p> <p>15 BY MS. BALDWIN:</p> <p>16 Q. Hi, Doctor. I neglected to</p> <p>17 ask you this earlier so kind of off topic</p> <p>18 of where we were. What did -- what did</p> <p>19 you do to prepare for today's deposition?</p> <p>20 A. Read materials, everything</p> <p>21 that was provided. I spoke with Attorney</p> <p>22 Moriarty. I had a meeting last week with</p> <p>23 Attorney Tarek Ismail and as well, a few</p> <p>24 weeks prior to that, with Attorney Molly</p>
<p style="text-align: right;">Page 151</p> <p>1 surgeon that all surgeons would think</p> <p>2 it's important to know the severity,</p> <p>3 frequency and treatability of</p> <p>4 complications when making recommendations</p> <p>5 to their patients, correct?</p> <p>6 A. The range, yes.</p> <p>7 Q. Do you intend to offer any</p> <p>8 standard of care opinions in this case</p> <p>9 about the surgery performed by Dr. Baker?</p> <p>10 MR. MORIARTY: Objection.</p> <p>11 Form and otherwise. Go ahead.</p> <p>12 A. No. Not standard of care.</p> <p>13 I intend to comment and give an opinion</p> <p>14 as to what he did.</p> <p>15 Q. Right. As to what he did,</p> <p>16 but you don't intend to offer an opinion</p> <p>17 that he deviated from the accepted</p> <p>18 standards of medical care?</p> <p>19 A. No. I'm not going to say</p> <p>20 that. I don't think so.</p> <p>21 Q. Do you believe that he</p> <p>22 deviated from the accepted standards of</p> <p>23 medical care?</p> <p>24 A. No. No.</p>	<p style="text-align: right;">Page 153</p> <p>1 Flynn.</p> <p>2 Q. Was your meeting with Mr.</p> <p>3 Ismail different than your meeting with</p> <p>4 Ms. Flynn? Were these those two separate</p> <p>5 meetings?</p> <p>6 A. They were in conjunction</p> <p>7 with Attorney Moriarty. He was present</p> <p>8 at both of those meetings.</p> <p>9 Q. Okay.</p> <p>10 A. And they were in different</p> <p>11 dates.</p> <p>12 Q. Okay.</p> <p>13 A. Attorney Flynn was there</p> <p>14 first and Attorney Ismail was there last</p> <p>15 week.</p> <p>16 Q. Okay. The meeting that</p> <p>17 happened last week with Attorney Ismail,</p> <p>18 how long did that meeting last?</p> <p>19 A. Well, for Attorney Moriarty</p> <p>20 and I, it lasted a little bit longer</p> <p>21 because he had a flight to catch, so I</p> <p>22 was there from 11:30 to about 6:00 last</p> <p>23 week.</p> <p>24 Q. And the meeting with Ms.</p>

<p style="text-align: right;">Page 154</p> <p>1 Flynn where Mr. Moriarty was there?</p> <p>2 A. Where Mr.</p> <p>3 Moriarty -- Attorney Moriarty was there.</p> <p>4 That was October 1st and that was, I</p> <p>5 think, an all-day thing.</p> <p>6 Q. So more than six or seven</p> <p>7 hours?</p> <p>8 A. Probably about that time</p> <p>9 because Attorney Moriarty had to drive</p> <p>10 back home and it's a long drive, so we</p> <p>11 finished about 5:00.</p> <p>12 Q. Did you look at any</p> <p>13 documents with the attorneys in those</p> <p>14 meetings?</p> <p>15 A. Yes.</p> <p>16 Q. Which documents did you</p> <p>17 review?</p> <p>18 A. I brought Patricia Hammons'</p> <p>19 medical records and other records.</p> <p>20 Q. When you say other records,</p> <p>21 medical records?</p> <p>22 A. I was sent records in</p> <p>23 different binders, so that would be Dr.</p> <p>24 Heit's records, Dr. Rohrer's records, Dr.</p>	<p style="text-align: right;">Page 156</p> <p>1 A. No, I did not.</p> <p>2 Q. Are you aware of the amount</p> <p>3 of money that he was paid by Ethicon to</p> <p>4 work for them?</p> <p>5 A. No, I am not.</p> <p>6 Q. Are you aware of the scope</p> <p>7 of his work for them?</p> <p>8 A. He was there since the</p> <p>9 beginning, so I imagine it was a very</p> <p>10 large scope compared to me which is</p> <p>11 nothing.</p> <p>12 Q. Other than serving as an</p> <p>13 expert in connection with this case?</p> <p>14 A. Correct, and the proctorship</p> <p>15 of Dr. Rao.</p> <p>16 Q. Right. And the consulting</p> <p>17 agreements that you signed?</p> <p>18 A. Right, for which I did not</p> <p>19 get any of that money.</p> <p>20 Q. Right, but you signed a</p> <p>21 consulting agreement?</p> <p>22 A. Correct.</p> <p>23 Q. At least two consulting</p> <p>24 agreements?</p>
<p style="text-align: right;">Page 155</p> <p>1 Baker's records.</p> <p>2 Q. Okay. So all the different</p> <p>3 medical records?</p> <p>4 A. Correct. Correct.</p> <p>5 Q. Did you review any company</p> <p>6 documents?</p> <p>7 A. I don't recall at that time</p> <p>8 that we reviewed company documents, no.</p> <p>9 Q. Okay. And then just because</p> <p>10 I didn't finish going through this. Were</p> <p>11 you ever given the deposition of Bryan</p> <p>12 Lisa?</p> <p>13 A. Not -- no.</p> <p>14 Q. And he was in Ethicon</p> <p>15 regulatory affairs?</p> <p>16 A. I did not see that.</p> <p>17 Q. Okay. Were you ever -- did</p> <p>18 you know that Vince Lucente was deposed</p> <p>19 in connection with this case?</p> <p>20 MR. MORIARTY: Objection.</p> <p>21 A. I imagine he would have</p> <p>22 since he was a proctor.</p> <p>23 Q. Did you get a copy of his</p> <p>24 deposition transcript?</p>	<p style="text-align: right;">Page 157</p> <p>1 A. Those are -- that is</p> <p>2 correct.</p> <p>3 Q. And you went to training for</p> <p>4 various Ethicon products, correct?</p> <p>5 A. I did go to training, yes.</p> <p>6 Q. And then you sent letters to</p> <p>7 York Hospital trying to get Ethicon</p> <p>8 products in the hospital, correct?</p> <p>9 A. I did.</p> <p>10 Q. Yeah. Do you think Vince</p> <p>11 Lucente did more than those things?</p> <p>12 A. I don't know if he was</p> <p>13 involved in the development of it. I</p> <p>14 don't know, but he's a national speaker.</p> <p>15 Q. Do you know if he had any</p> <p>16 role or influence on publications that</p> <p>17 came out from ACOG about pelvic mesh?</p> <p>18 MR. MORIARTY: Objection.</p> <p>19 A. Well, let's -- I think he</p> <p>20 published a lot. Did it come out in the</p> <p>21 Green Journal or the Gray Journal, I'm</p> <p>22 not quite sure.</p> <p>23 Q. Do you know if he did any</p> <p>24 behind-the-scenes work on the editing or</p>

<p style="text-align: right;">Page 158</p> <p>1 revisions to things that came out in the</p> <p>2 ACOG journal that were unfavorable about</p> <p>3 pelvic mesh?</p> <p>4 MR. MORIARTY: Objection.</p> <p>5 A. I don't have any knowledge</p> <p>6 of that.</p> <p>7 Q. Okay. Do you know if he had</p> <p>8 any role in working with the sales and</p> <p>9 marketing people at Ethicon?</p> <p>10 A. I don't know what his role</p> <p>11 was in that respect.</p> <p>12 Q. Would you liked to have</p> <p>13 known that since he proctored you if he</p> <p>14 was working for the company with their</p> <p>15 sales and marketing teams as well?</p> <p>16 MR. MORIARTY: Objection.</p> <p>17 Go ahead.</p> <p>18 A. Well, I kind of figured he</p> <p>19 would be, so I just wanted -- I just went</p> <p>20 for training.</p> <p>21 Q. When he did the training</p> <p>22 with you, did he give you -- did he give</p> <p>23 you -- I'm sorry. I'm going fast. Did</p> <p>24 he give you the complication rates he saw</p>	<p style="text-align: right;">Page 160</p> <p>1 A. That would be correct.</p> <p>2 Q. After you were trained at</p> <p>3 end of April 2005, as new versions of the</p> <p>4 Prolift slide deck came out, were they</p> <p>5 sent to you by Ethicon?</p> <p>6 A. The rep brought things in,</p> <p>7 but I can't remember exactly what he</p> <p>8 brought in when and what it was called,</p> <p>9 if it was called Prolift slide deck or</p> <p>10 not, so I can't recall.</p> <p>11 Q. So just, for instance, there</p> <p>12 were different versions of the Prolift</p> <p>13 slide deck; I'll represent that to you.</p> <p>14 I think you reviewed some of them, and</p> <p>15 there was a 2005 version and a 2009</p> <p>16 version.</p> <p>17 Do you understand that there</p> <p>18 were different versions of the Prolift</p> <p>19 slide decks released?</p> <p>20 A. I see different versions</p> <p>21 with dates here, 2004, 2009 and Prolift+M</p> <p>22 professional education slide deck, but</p> <p>23 in -- I have professional education</p> <p>24 videos.</p>
<p style="text-align: right;">Page 159</p> <p>1 with his own patients?</p> <p>2 A. What we saw was a slide</p> <p>3 presentation, and I don't know if it was</p> <p>4 his particular patients or if it</p> <p>5 was -- the complications rate came from</p> <p>6 somewhere else.</p> <p>7 Q. Okay. So you saw what was</p> <p>8 in the Ethicon slide decks?</p> <p>9 A. That would be correct.</p> <p>10 Q. Right. And then after you</p> <p>11 left, you weren't given that slide deck</p> <p>12 to take home or anything like that?</p> <p>13 A. I don't particularly recall.</p> <p>14 Q. Okay. You don't recall</p> <p>15 getting it or you don't know one way or</p> <p>16 the other?</p> <p>17 A. I don't know one way or the</p> <p>18 other. I don't remember if they gave it</p> <p>19 to me or not.</p> <p>20 Q. Okay. And you were trained,</p> <p>21 I think, in 2005? I'm sorry. I forget.</p> <p>22 A. In the end of April of 2005.</p> <p>23 Q. Is when you were trained on</p> <p>24 Prolift?</p>	<p style="text-align: right;">Page 161</p> <p>1 Q. Are you aware that for the</p> <p>2 Prolift that there were different</p> <p>3 professional education slide decks that</p> <p>4 were released at different points in</p> <p>5 time?</p> <p>6 A. Not for the Prolift itself.</p> <p>7 Q. Okay. If there were</p> <p>8 different Prolift slide decks, you as a</p> <p>9 physician, just based on your own</p> <p>10 experience, you're not certain whether</p> <p>11 you saw all of them as a practicing</p> <p>12 physician who implanted the Prolift?</p> <p>13 A. I can't be sure of what I</p> <p>14 saw when.</p> <p>15 Q. Right.</p> <p>16 A. Right.</p> <p>17 Q. So you can't be sure that</p> <p>18 you saw all the different versions of the</p> <p>19 Prolift professional education slide</p> <p>20 deck?</p> <p>21 A. At the time, that would be a</p> <p>22 correct assessment.</p> <p>23 Q. Right. You're not sure</p> <p>24 which documents were given to you and</p>

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<p>1 which weren't?</p> <p>2 A. For the slide deck.</p> <p>3 Q. And I'm asking now not as an</p> <p>4 expert but as --</p> <p>5 A. As a physician.</p> <p>6 Q. Right.</p> <p>7 A. When the rep came in with</p> <p>8 new information and updated patient</p> <p>9 material, then whatever I saw, I saw, but</p> <p>10 I can't be exactly sure of what I saw at</p> <p>11 what date.</p> <p>12 Q. When you -- was the sales</p> <p>13 rep your source of information for</p> <p>14 materials from Ethicon about its Prolift</p> <p>15 product?</p> <p>16 A. Other than the Green</p> <p>17 Journal, the Gray Journal and the other</p> <p>18 literature, yes.</p> <p>19 Q. I'm saying putting aside --</p> <p>20 A. Okay.</p> <p>21 Q. -- public literature or</p> <p>22 research you could have done, was your</p> <p>23 source of information from the company</p> <p>24 about its product the information that</p>	<p>1 Q. That's what I'm saying.</p> <p>2 A. Yes.</p> <p>3 Q. Outside of Ethicon sponsored</p> <p>4 conferences?</p> <p>5 A. Yes.</p> <p>6 Q. So at non-Ethicon</p> <p>7 conferences you may run into Dr. Lucente?</p> <p>8 A. Yes.</p> <p>9 Q. And at those conferences, he</p> <p>10 may have spoken to you about the Prolift</p> <p>11 product?</p> <p>12 A. That is correct.</p> <p>13 Q. Because you knew that he may</p> <p>14 have been involved in the sales and</p> <p>15 marketing of Prolift?</p> <p>16 A. Well, once I've gotten the</p> <p>17 training and I knew him and I saw him at</p> <p>18 conferences, then yes.</p> <p>19 Q. Right. He would talk to you</p> <p>20 about the Prolift product?</p> <p>21 A. Yes.</p> <p>22 Q. Okay.</p> <p>23 A. Amongst other things.</p> <p>24 Q. Okay. Then if we keep going</p>
Page 163	Page 165
<p>1 was provided to you by the sales rep?</p> <p>2 A. Yes. Partially, yes.</p> <p>3 Q. And what's the other?</p> <p>4 A. I had encountered Dr.</p> <p>5 Lucente at conferences and other meetings</p> <p>6 and he still remembered me and so we</p> <p>7 might have had some discussion at the</p> <p>8 time.</p> <p>9 Q. He might have talked to you</p> <p>10 about the Prolift product?</p> <p>11 A. Correct.</p> <p>12 Q. Okay. And when you say</p> <p>13 conferences and things, were those</p> <p>14 Ethicon sponsored conferences?</p> <p>15 A. No. That would have been,</p> <p>16 like, ACOG, AAGL.</p> <p>17 Q. Okay. So outside of Ethicon</p> <p>18 sponsored conferences, ACOG or AGL --</p> <p>19 A. AAGL.</p> <p>20 Q. -- AAGL, you may have ran</p> <p>21 into Dr. Lucente?</p> <p>22 A. Outside of that, no.</p> <p>23 Q. Okay.</p> <p>24 A. At those conferences.</p>	<p>1 in my handy dandy list here, do you know</p> <p>2 who Cheryl McCoy is?</p> <p>3 A. No, I do not.</p> <p>4 Q. Okay. Do you know who Sean</p> <p>5 O'Brien is?</p> <p>6 A. No, I do not.</p> <p>7 Q. Were you ever shown the</p> <p>8 depositions of Cheryl McCoy or Sean</p> <p>9 O'Brien?</p> <p>10 A. No, I was not.</p> <p>11 Q. Do you know who Charlotte</p> <p>12 Owens is?</p> <p>13 A. No, I do not.</p> <p>14 Q. Did you ever look at the</p> <p>15 clinical report for the Prolift?</p> <p>16 A. The clinical report for the</p> <p>17 Prolift?</p> <p>18 Q. Yes.</p> <p>19 A. I...</p> <p>20 Q. Do you know what a clinic</p> <p>21 report is?</p> <p>22 A. I don't know what specific</p> <p>23 clinical report you mean.</p> <p>24 Q. Okay. So if you don't know,</p>

<p style="text-align: right;">Page 166</p> <p>1 that's fine.</p> <p>2 A. Okay.</p> <p>3 Q. But I'm asking you, do you</p> <p>4 know what a clinical report is?</p> <p>5 A. Maybe not with your</p> <p>6 definition.</p> <p>7 Q. Okay. Do you know what a</p> <p>8 clinical report that has to be given to</p> <p>9 the FDA verifying the safety and efficacy</p> <p>10 of a medical device is?</p> <p>11 A. No, I do not.</p> <p>12 Q. Okay.</p> <p>13 A. Okay. So --</p> <p>14 Q. Are you familiar with those</p> <p>15 documents at all?</p> <p>16 A. No, I am not.</p> <p>17 Q. Okay. Did you look at the</p> <p>18 clinical report for the Prolift?</p> <p>19 A. I do not recall.</p> <p>20 Q. Okay. Did you look at the</p> <p>21 clinical report for Gynemesh PS?</p> <p>22 A. I do not recall, no.</p> <p>23 Q. Okay. When Ethicon</p> <p>24 filed -- or prepared a clinical report</p>	<p style="text-align: right;">Page 168</p> <p>1 pelvic floor repair surgeries?</p> <p>2 A. Yes.</p> <p>3 Q. When evaluating the safety</p> <p>4 and efficacy of a product for use in your</p> <p>5 own patients, do you want to know all of</p> <p>6 the clinically significant risks that the</p> <p>7 manufacturer has seen in patients?</p> <p>8 MR. MORIARTY: Objection.</p> <p>9 Go ahead.</p> <p>10 A. I think I would want to know</p> <p>11 what they -- what is clinically relevant,</p> <p>12 yes.</p> <p>13 Q. You'd want to know what the</p> <p>14 manufacturer knew as far as clinically</p> <p>15 relevant risks?</p> <p>16 A. Yes.</p> <p>17 Q. Because that information</p> <p>18 would be important to you when counseling</p> <p>19 your patients?</p> <p>20 A. It would be -- it would be</p> <p>21 part of my counseling, yes.</p> <p>22 Q. Right. And it would be</p> <p>23 important to you in your own decision as</p> <p>24 to whether or not to recommend products</p>
<p style="text-align: right;">Page 167</p> <p>1 about the safety and efficacy of the</p> <p>2 Prolift, would you expect that they would</p> <p>3 put in there all of the known</p> <p>4 complications with the Prolift?</p> <p>5 MR. MORIARTY: Objection.</p> <p>6 Go ahead.</p> <p>7 A. Would I expect it or would I</p> <p>8 wish or would I want?</p> <p>9 Q. Would you expect?</p> <p>10 A. If it was clinically</p> <p>11 relevant and specific to the Prolift</p> <p>12 itself, I would want to.</p> <p>13 Q. Right. You would want them</p> <p>14 to include that in clinical reports they</p> <p>15 prepared about the safety and efficacy of</p> <p>16 the product?</p> <p>17 A. In general, yes.</p> <p>18 Q. Yes, because it's relevant</p> <p>19 if women are suffering severe -- severe</p> <p>20 injuries that are clinically significant?</p> <p>21 A. That are attributable or</p> <p>22 unique to the material itself.</p> <p>23 Q. Right. Let me ask you this</p> <p>24 question: As a gynecologist who does</p>	<p style="text-align: right;">Page 169</p> <p>1 for use with your patients?</p> <p>2 A. Depending on the risks and</p> <p>3 complications, that would be accurate.</p> <p>4 Q. Right. So you'd need to</p> <p>5 know all the information the company knew</p> <p>6 about clinically significant risks in</p> <p>7 order to be able to make a decision</p> <p>8 yourself about whether or not to</p> <p>9 recommend it to a patient?</p> <p>10 MR. MORIARTY: Objection.</p> <p>11 A. Yes, if it was attributable</p> <p>12 to that product.</p> <p>13 Q. Right. If the company knew</p> <p>14 about clinically significant risks that</p> <p>15 it believed were novel or new risks that</p> <p>16 were associated with the use of that</p> <p>17 product like the Prolift, you as a</p> <p>18 surgeon would want to know that so you</p> <p>19 could, one, use it in your decision about</p> <p>20 whether to recommend it to patients, and,</p> <p>21 two, use it in your counseling of</p> <p>22 patients, correct?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know who Paul Parisi</p>

<p style="text-align: right;">Page 170</p> <p>1 is?</p> <p>2 A. I don't think so.</p> <p>3 Q. Okay. Do you know who David</p> <p>4 Robinson is?</p> <p>5 A. No, I do not.</p> <p>6 Q. Would it ever be appropriate</p> <p>7 for Ethicon to not put certain</p> <p>8 information in its labeling of its</p> <p>9 products just because a previous version</p> <p>10 had already been printed to save some</p> <p>11 money?</p> <p>12 MR. MORIARTY: Objection.</p> <p>13 A. Would it ever be</p> <p>14 appropriate?</p> <p>15 Q. If Ethicon had clinically</p> <p>16 significant information about the Prolift</p> <p>17 product that it did not put in its</p> <p>18 labeling because it had already printed</p> <p>19 the labeling, would that be appropriate</p> <p>20 to market the product without that</p> <p>21 information?</p> <p>22 MR. MORIARTY: Objection.</p> <p>23 A. If the information was</p> <p>24 critical, then I don't think that would</p>	<p style="text-align: right;">Page 172</p> <p>1 A. I would expect that, yes.</p> <p>2 Q. And would you expect that</p> <p>3 they were putting the health and safety</p> <p>4 of those patients above their own</p> <p>5 profits?</p> <p>6 MR. MORIARTY: Objection.</p> <p>7 A. I think health and safety is</p> <p>8 a very important aspect. Ahead of</p> <p>9 profit, well, if they go bankrupt, then</p> <p>10 there's no product, so it just depends on</p> <p>11 the degree of...</p> <p>12 Q. So are you saying that in</p> <p>13 some instances their profit is more</p> <p>14 important than the health and safety of</p> <p>15 patients?</p> <p>16 A. No, I am not.</p> <p>17 Q. Okay. What are you saying?</p> <p>18 A. I'm saying that if it's</p> <p>19 clinically relevant information, that is</p> <p>20 important.</p> <p>21 Q. And a medical device</p> <p>22 manufacturer should share that with the</p> <p>23 user -- with the doctors who are going to</p> <p>24 use those devices?</p>
<p style="text-align: right;">Page 171</p> <p>1 be appropriate.</p> <p>2 Q. How do you define critical?</p> <p>3 Does that mean clinically significant?</p> <p>4 A. Clinically significant.</p> <p>5 Q. So if Ethicon had clinically</p> <p>6 significant information about its</p> <p>7 products but didn't put it in the</p> <p>8 labeling because it had already printed</p> <p>9 the labeling and wanted to save the</p> <p>10 money, that would be inappropriate?</p> <p>11 MR. MORIARTY: Objection.</p> <p>12 Go ahead.</p> <p>13 A. Yeah. I would want to know.</p> <p>14 Q. As a gynecologist and a</p> <p>15 pelvic floor surgeon, one of your primary</p> <p>16 interests is the health and safety of</p> <p>17 your patients?</p> <p>18 A. Yes, it is.</p> <p>19 Q. And you would hope -- would</p> <p>20 you expect that medical device</p> <p>21 manufacturers would also value the health</p> <p>22 and safety of the patients who are using</p> <p>23 the medical devices they put on the</p> <p>24 market?</p>	<p style="text-align: right;">Page 173</p> <p>1 A. I would agree with that</p> <p>2 statement.</p> <p>3 Q. Okay. And you would expect</p> <p>4 that in your standpoint as a</p> <p>5 gynecological surgeon?</p> <p>6 A. Yes, I would.</p> <p>7 Q. And you would expect as a</p> <p>8 gynecologic surgeon who used Prolift that</p> <p>9 Ethicon would share all of the clinically</p> <p>10 significant information it had about its</p> <p>11 product in the labeling of the Prolift</p> <p>12 product?</p> <p>13 MR. MORIARTY: Objection.</p> <p>14 Go ahead.</p> <p>15 A. I would want to, yes.</p> <p>16 Q. You would expect that they</p> <p>17 would do that?</p> <p>18 A. Yes.</p> <p>19 Q. And you would want that as a</p> <p>20 surgeon?</p> <p>21 A. Yes.</p> <p>22 Q. Because of the safety and</p> <p>23 health of your patients?</p> <p>24 A. Yes.</p>

<p style="text-align: right;">Page 174</p> <p>1 Q. Do you know who Price St. 2 Hilaire is?</p> <p>3 A. No, I do not.</p> <p>4 Q. Do you know who Clifford 5 Volpe is?</p> <p>6 A. No, I do not.</p> <p>7 Q. Do you know who Marty 8 Weisberg is?</p> <p>9 A. No, I do not.</p> <p>10 Q. Okay. Would you expect that 11 inside Ethicon, if the medical affairs 12 team was aware of severe complications, 13 that that would be shared outside of the 14 medical affairs department to the leaders 15 at Ethicon?</p> <p>16 MR. MORIARTY: Objection.</p> <p>17 A. I would hope it would be.</p> <p>18 Q. Would it be upsetting for 19 you to know that the worldwide president 20 of Ethicon Women's Health and Urology was 21 not aware of any severe complications 22 with the Prolift?</p> <p>23 MR. MORIARTY: Objection.</p> <p>24 A. Would it upset me?</p>	<p style="text-align: right;">Page 176</p> <p>1 never informed that there was concern 2 about complications like dyspareunia in 3 women who got the Prolift implant?</p> <p>4 MR. MORIARTY: Objection.</p> <p>5 A. Is she a surgeon?</p> <p>6 Q. She's the vice chairman of 7 Johnson & Johnson and the head of 8 surgical care there.</p> <p>9 A. Okay. So are we talking 10 about painful intercourse after pelvic 11 surgery -- just pelvic surgery?</p> <p>12 Q. Prolift?</p> <p>13 A. One would assume that there 14 would be pain with intercourse after any 15 pelvic floor surgery with or without 16 mesh.</p> <p>17 Q. Putting that aside, she was 18 never told about any specific 19 complications associated with the 20 Prolift. Does that upset you as a 21 surgeon?</p> <p>22 MR. MORIARTY: Objection.</p> <p>23 A. I did not know that.</p> <p>24 Q. That the head of surgical</p>
<p style="text-align: right;">Page 175</p> <p>1 Q. Does it upset you?</p> <p>2 A. Yeah. Yes. It would upset 3 me.</p> <p>4 Q. If Renee Selman, the 5 worldwide president of Ethicon's Women's 6 Health and Urology, testified she was not 7 aware of severe complications with 8 Prolift, does that fact upset you?</p> <p>9 MR. MORIARTY: Objection.</p> <p>10 A. Yes. I would want a 11 president to know what's going on, or is 12 it possible that she didn't know? Yes.</p> <p>13 Q. What's dyspareunia?</p> <p>14 A. It's defined as pain with 15 intercourse or painful intercourse.</p> <p>16 Q. You understand that one of 17 the risks of the Prolift device is 18 dyspareunia?</p> <p>19 MR. MORIARTY: Objection.</p> <p>20 A. Including any pelvic 21 surgery, yes.</p> <p>22 Q. Okay. Would it surprise you 23 to know that Cheryl McCoy, who is the 24 vice chairman of Johnson & Johnson, was</p>	<p style="text-align: right;">Page 177</p> <p>1 care for the defendants didn't know that 2 there were serious complications 3 associated with the Prolift?</p> <p>4 MR. MORIARTY: Objection.</p> <p>5 A. I didn't know that.</p> <p>6 Q. Do you know that she doesn't 7 know what the term "dyspareunia" means?</p> <p>8 A. I did not know that.</p> <p>9 Q. Is that alarming to you that 10 the head of surgical care for the 11 defendants doesn't even know what the 12 term "dyspareunia" means?</p> <p>13 MR. MORIARTY: Objection.</p> <p>14 A. Yes, but it's a medical 15 term, so pain with intercourse...</p> <p>16 Q. Right. So the head of 17 surgical care at Ethicon you think is not 18 expected to know medical terms like 19 dyspareunia even though one of their 20 products has a known risk of dyspareunia?</p> <p>21 MR. MORIARTY: Objection.</p> <p>22 A. Can you repeat that 23 question, please?</p> <p>24 Q. Well, you said it's a</p>

<p style="text-align: right;">Page 178</p> <p>1 medical term?</p> <p>2 A. It's a medical term, so if a</p> <p>3 particular person in a business suit who</p> <p>4 is not a doctor doesn't know a particular</p> <p>5 term but knows the synonym, you know...</p> <p>6 Q. Right. So the head of</p> <p>7 surgical care doesn't have to know what</p> <p>8 dyspareunia is. You're saying that's</p> <p>9 okay at Ethicon?</p> <p>10 A. No. I'm not saying it's</p> <p>11 okay. Am I surprised by it? No.</p> <p>12 Q. Are you surprised that she</p> <p>13 didn't know that women were suffering</p> <p>14 from severe complications with the</p> <p>15 Prolift?</p> <p>16 MR. MORIARTY: Objection.</p> <p>17 A. Am I surprised? You know,</p> <p>18 in a big organization, you know, yes. I</p> <p>19 guess it -- she should have been aware.</p> <p>20 Q. And this goes back, I guess,</p> <p>21 really, Doctor, to your qualifications.</p> <p>22 You've never worked for a medical device</p> <p>23 manufacturer, correct?</p> <p>24 A. Correct.</p>	<p style="text-align: right;">Page 180</p> <p>1 a label to determine its adequacy,</p> <p>2 correct --</p> <p>3 MR. MORIARTY: Objection.</p> <p>4 Q. -- for a device</p> <p>5 manufacturer?</p> <p>6 MR. MORIARTY: Objection.</p> <p>7 A. To determine adequacy in a</p> <p>8 medical litigation case, yes.</p> <p>9 Q. Right. No. I'm saying</p> <p>10 determining adequacy for the purposes of</p> <p>11 a medical device manufacturer, correct?</p> <p>12 A. Correct.</p> <p>13 Q. Right. You've never done</p> <p>14 that other than this case, Patricia</p> <p>15 Hammons?</p> <p>16 A. Correct.</p> <p>17 Q. Where you were paid -- I</p> <p>18 don't know where the documents went to.</p> <p>19 Where you were paid to do so at 450 an</p> <p>20 hour, correct?</p> <p>21 A. That would be correct.</p> <p>22 Q. All right. And have you</p> <p>23 ever worked for Butler Snow in any</p> <p>24 context outside of this litigation?</p>
<p style="text-align: right;">Page 179</p> <p>1 Q. Right. And you don't have</p> <p>2 any experience in the design of medical</p> <p>3 devices, correct?</p> <p>4 A. I have no experience in</p> <p>5 designing those devices. You are</p> <p>6 correct.</p> <p>7 Q. And you have no experience</p> <p>8 whatsoever in writing the labeling for</p> <p>9 medical devices, correct?</p> <p>10 MR. MORIARTY: Objection.</p> <p>11 Asked and answered. Go ahead.</p> <p>12 A. I have never written a</p> <p>13 labeling so...</p> <p>14 Q. And outside of this case</p> <p>15 here, the Patricia Hammons case --</p> <p>16 A. Yes.</p> <p>17 Q. -- you've never been hired</p> <p>18 any by medical device manufacturer as an</p> <p>19 employee or a consultant to any type of</p> <p>20 critique of the adequacy of their</p> <p>21 labeling, correct?</p> <p>22 A. That would be correct.</p> <p>23 Q. So this case, Hammons, is</p> <p>24 the very first time you've ever looked at</p>	<p style="text-align: right;">Page 181</p> <p>1 A. No.</p> <p>2 Q. Okay. What about Tucker</p> <p>3 Ellis law firm?</p> <p>4 A. No.</p> <p>5 Q. What about Drinker, Biddle &</p> <p>6 Reath?</p> <p>7 A. I do not know --</p> <p>8 Q. Okay.</p> <p>9 A. -- who they are.</p> <p>10 Q. What about Thomas, Combs &</p> <p>11 Spann?</p> <p>12 A. I don't know who they are.</p> <p>13 Q. What about the Goldman</p> <p>14 Ismail firm? Outside of this litigation,</p> <p>15 have you ever worked with them?</p> <p>16 A. I worked with Tarek Ismail,</p> <p>17 so if he's the partner, then yes.</p> <p>18 Q. Right. That's not my</p> <p>19 question. I'm asking outside of this</p> <p>20 litigation?</p> <p>21 A. Outside, no.</p> <p>22 Q. Right. Have you had, that</p> <p>23 you know of, any direct communications</p> <p>24 with anyone in professional education at</p>

<p style="text-align: right;">Page 182</p> <p>1 Ethicon?</p> <p>2 A. Not that I know of.</p> <p>3 Q. Did you see any of the</p> <p>4 exhibits that were marked at the</p> <p>5 depositions of any of the company folks</p> <p>6 that I listed out? Do you know if you</p> <p>7 got any of the exhibits that were marked</p> <p>8 at their depositions?</p> <p>9 A. Some, yes.</p> <p>10 Q. Okay. And how do you know</p> <p>11 that you saw those if you didn't see the</p> <p>12 depositions?</p> <p>13 A. Oh, I saw the depositions of</p> <p>14 Ann Weber --</p> <p>15 Q. Okay. I'm talking about</p> <p>16 this list here I went through with all of</p> <p>17 the company folks who you weren't</p> <p>18 familiar with?</p> <p>19 A. No. I have not seen any of</p> <p>20 those exhibits.</p> <p>21 Q. Doctor, were you able to</p> <p>22 read the deposition of Patricia Hammons</p> <p>23 before you did the medical examination of</p> <p>24 her?</p>	<p style="text-align: right;">Page 184</p> <p>1 list, I think it's the last two pages.</p> <p>2 It looks like you looked at the</p> <p>3 plaintiff's reports of Daniel Elliott,</p> <p>4 Uwe Klinge, Peggy Pence, Ann Weber and</p> <p>5 Ralph Zipper. Did I read that correctly?</p> <p>6 A. Yes. You read that</p> <p>7 correctly.</p> <p>8 Q. Did you read any of the</p> <p>9 defense expert reports in this case?</p> <p>10 A. I don't think I read</p> <p>11 anything other than what's on this list.</p> <p>12 Q. Okay. Do you know who Dr.</p> <p>13 Lowman is?</p> <p>14 A. Oh, yes. Yes.</p> <p>15 Q. Okay.</p> <p>16 A. I read her report. It was</p> <p>17 provided to me.</p> <p>18 Q. All right. Did you read any</p> <p>19 of the other reports? Let's see. Did</p> <p>20 you read the report of Shelby Thames or</p> <p>21 Thames, T-H-A-M-E-S?</p> <p>22 A. I don't think so.</p> <p>23 Q. How about the report of</p> <p>24 Timothy Ulatowski?</p>
<p style="text-align: right;">Page 183</p> <p>1 MR. MORIARTY: I'm sorry.</p> <p>2 Could you repeat that question?</p> <p>3 Q. Were you able to read the</p> <p>4 deposition of Patricia Hammons before you</p> <p>5 did the medical examination of her?</p> <p>6 A. I think I did.</p> <p>7 Q. Okay. It had physically</p> <p>8 been provided to you?</p> <p>9 A. I think it was.</p> <p>10 Q. Okay. So you think it was</p> <p>11 available to you. You could have read</p> <p>12 it. Whether you did it or not, you</p> <p>13 physically had it in your possession?</p> <p>14 A. In relationship to the date</p> <p>15 in which I performed the exam, yes.</p> <p>16 Q. Okay.</p> <p>17 A. So yes, I did.</p> <p>18 Q. Okay.</p> <p>19 A. Okay.</p> <p>20 Q. Okay.</p> <p>21 A. Yes. Time-wise, yes,</p> <p>22 because my exam was in September.</p> <p>23 Q. And then looking at the</p> <p>24 expert reports here on your reliance</p>	<p style="text-align: right;">Page 185</p> <p>1 A. I don't recall that name.</p> <p>2 Q. And how about the report of</p> <p>3 David Weber?</p> <p>4 A. No. I would remember Ann</p> <p>5 Weber but not a David Weber.</p> <p>6 Q. Okay. Am I correct you</p> <p>7 don't hold yourself out as an expert in</p> <p>8 polymer science?</p> <p>9 A. That would be correct.</p> <p>10 Q. You don't hold yourself out</p> <p>11 as an expert in material science?</p> <p>12 A. Not in material science, no.</p> <p>13 Q. You don't hold yourself out</p> <p>14 as a regulatory expert?</p> <p>15 A. I am not a regulatory</p> <p>16 expert. That is correct.</p> <p>17 Q. You don't hold yourself out</p> <p>18 as an expert epidemiologist?</p> <p>19 A. That would also be correct.</p> <p>20 Q. Okay. Doctor, if a medical</p> <p>21 device has a permanent risk that cannot</p> <p>22 be treated, is that important to you as a</p> <p>23 surgeon when making a decision whether to</p> <p>24 recommend that product to a patient?</p>

<p style="text-align: right;">Page 186</p> <p>1 A. Depending on the risk, the 2 intensity, the severity and the 3 percentage of recurrence or the frequency 4 of recurrence, yes. 5 Q. Right. So you'd want to 6 know all of those things? 7 A. As best that can be 8 reported, yes. 9 Q. Did you ever stop using the 10 Prolift product? 11 A. Yes, I did. 12 Q. When was that, 13 approximately? 14 A. Somewhere between 2010 and 15 2011, I think. I'm not sure. 16 Q. And why is it that you 17 stopped using the Prolift product? 18 MR. MORIARTY: Objection. 19 Asked and answered. 20 A. As I stated previously, 21 there were other reps coming into my 22 office. I looked at another mesh where 23 the hospital already had an agreement 24 with Coloplast and Restorelle and tried</p>	<p style="text-align: right;">Page 188</p> <p>1 that Mrs. Hammons could have undergone, 2 correct? 3 A. Yes. 4 Q. For her pelvic organ 5 prolapse, correct? 6 A. I discussed other options, 7 yes, that are available. 8 Q. Right. And those other 9 options all have risks associated with 10 them, correct? 11 A. That would be correct. 12 Q. But you can't sit here 13 today, you're not clairvoyant, and say 14 had she gotten an alternative procedure, 15 a different surgery, she definitively 16 would have had this specific thing happen 17 to her, correct? 18 MR. MORIARTY: Objection. 19 Form. Go ahead. 20 A. It depends on what you're 21 talking about, but yes. 22 Q. Let me just give you an 23 example. 24 A. Yes.</p>
<p style="text-align: right;">Page 187</p> <p>1 it. And then the FDA came out with its 2 warning, and Prolift -- I think they 3 stopped production or providing Prolift. 4 Q. Do you know that the Prolift 5 is no longer on the market? 6 A. Yes, I do. 7 Q. Do you know why it is no 8 longer on the market? 9 A. No, I do not. 10 Q. Were you provided any of the 11 correspondence between Ethicon and the 12 FDA about studies that needed to be done 13 on the Prolift? 14 MR. MORIARTY: Objection. 15 A. Not that I can recall, no. 16 Q. Were you provided any 17 documents internally about Ethicon's 18 decision to pull Prolift from the market? 19 MR. MORIARTY: Objection. 20 Go ahead. 21 A. Not that I can remember. 22 Q. Okay. Doctor, in your 23 report you talked about a host of other 24 procedures other than the Prolift implant</p>	<p style="text-align: right;">Page 189</p> <p>1 Q. One of the alternative 2 surgeries you listed was a sacrospinous 3 ligament fixation. Am I saying that 4 correctly? 5 A. That be would correct. 6 Q. And that's an alternative 7 procedure Mrs. Hammons could have 8 undergone, correct? 9 A. For apical vault prolapse, 10 yes. 11 Q. Okay. And one of the 12 surgeries you talked about was a vaginal 13 paravaginal repair, correct? 14 A. That would be correct. 15 Q. Right. And those surgeries 16 have risks associated with them, correct? 17 A. Yes, they do. 18 Q. What are the risks 19 associated with surgeries like that? 20 A. Bleeding, infection, pain, 21 dyspareunia, scarring, urinary 22 incontinence, nerve damage, muscle 23 damage, heart attack, stroke, suture 24 erosion.</p>

<p style="text-align: right;">Page 190</p> <p>1 Q. Sitting here today, you're 2 not able to say had, in 2009, Ms. Hammons 3 gone to Dr. Baker and he recommended one 4 of those alternative procedures and she 5 elected to have it, that she would have 6 suffered a heart attack, which is one of 7 the risks you listed, correct? 8 MR. MORIARTY: Objection to 9 form. Go ahead. 10 A. Correct. 11 Q. You could not sit here and 12 say, had she undergone one of those 13 alternative procedures, she would have 14 definitely suffered nerve damage, 15 correct? 16 MR. MORIARTY: Objection. 17 A. I would agree with that. 18 Q. Right. You can't predict 19 what her course would have been had she 20 undergone one of those procedures. You 21 only know that they are risks associated 22 with those procedures, correct? 23 MR. MORIARTY: Objection. 24 Form. Go ahead.</p>	<p style="text-align: right;">Page 192</p> <p>1 A. By Dr. Baker. 2 Q. And Dr. Baker did not treat 3 her posterior compartment, correct? 4 A. Neither did he treat her 5 apical compartment. 6 Q. Correct. And do you 7 understand that with the Prolift there's 8 a shifting of the pressures in the pelvic 9 floor? 10 A. There can be. 11 Q. Right. So one of the risks 12 with the Prolift is the shifting of the 13 pressures and that the pelvic organ 14 prolapse will reappear in a different 15 compartment, correct? 16 A. There's an increased risk, 17 yes. 18 Q. Right. So that's an 19 increased risk of the procedure? 20 A. Yes, but she already had the 21 apical prolapse. 22 Q. Right. She already had the 23 apical prolapse, and he did an anterior 24 repair?</p>
<p style="text-align: right;">Page 191</p> <p>1 A. Not to a hundred percent 2 degree of medical certainty, but yes. I 3 do agree. There are risks associated 4 with any and every procedure. 5 Q. Right. It would be 6 impossible for you to say to a reasonable 7 degree of medical certainty what risks 8 she absolutely would have suffered had 9 she undergone a different surgical 10 procedure, correct? 11 MR. MORIARTY: Objection. 12 Form. 13 A. That would be correct up to 14 a hundred percent of medical certainty. 15 Q. Right. No one could do 16 that, correct? 17 A. Correct. 18 Q. Unless they were somehow 19 clairvoyant, correct? 20 A. Correct. 21 Q. Right. Ms. Hammons had an 22 anterior Prolift, correct? 23 A. Yes, she did. 24 Q. By Dr. Baker?</p>	<p style="text-align: right;">Page 193</p> <p>1 A. Correct. 2 Q. And then when she went to 3 see Dr. Lackey, she had a posterior 4 prolapse, correct? 5 A. Of what Dr. Lackey noted, 6 yes. 7 Q. Do you disagree that she had 8 a posterior prolapse? 9 A. No, I do not. 10 Q. Okay. So you agree she had 11 a posterior prolapse, and you know that 12 one of the risks of getting an anterior 13 Prolift is the shifting of the pressures 14 and an increased risk of a posterior 15 prolapse, correct? 16 MR. MORIARTY: Objection. 17 Form. Go ahead. 18 A. I agree that prolapse in the 19 untreated compartment, but she still had 20 her apical prolapse which was not 21 treated. 22 Q. Right. Correct. And we're 23 not talking about the apical prolapse. 24 We're talking about the posterior</p>

<p style="text-align: right;">Page 194</p> <p>1 prolapse. 2 A. Okay. 3 Q. Right. That was an 4 untreated compartment as of 2009 when Dr. 5 Baker did the anterior Prolift, correct? 6 A. In May of 2009, yes. 7 Q. And he had -- did an 8 anterior Prolift procedure, correct? 9 A. Yes, he did. 10 Q. And the posterior then was 11 untreated after he did the anterior 12 Prolift, correct? 13 A. That would be correct. 14 Q. So one of the risks of doing 15 that anterior Prolift was that there 16 would then be a pelvic organ prolapse in 17 the posterior untreated compartment, 18 correct? 19 A. As well as the apex, yes. 20 Q. Correct. And then by the 21 time she got to see Dr. Lackey, who we 22 know did a posterior repair, she, in 23 fact, had posterior pelvic organ 24 prolapse, correct?</p>	<p style="text-align: right;">Page 196</p> <p>1 were meant to be intraperitoneal, so they 2 were not Gynemesh or Gynemesh PS or 3 Prolift. 4 Q. So they had a different 5 consistency in that they were more rigid 6 than the Gynemesh? 7 A. Yes. 8 Q. And that they were a much 9 smaller disk. There was much less mesh? 10 A. Well, for the meshes for the 11 umbilical hernias that I used, yes, they 12 were appropriately sized. 13 Q. Right. So you believe it 14 was a different material? 15 A. Or it was a combination of 16 different materials. 17 Q. Right. You're not an expert 18 in comparing medical devices from a 19 material standpoint the similarities 20 between them, correct? 21 A. It just depends on what 22 you're talking about. Hernia mesh versus 23 Prolift? 24 Q. Right.</p>
<p style="text-align: right;">Page 195</p> <p>1 A. Amongst other things, yes. 2 Q. Yes. Have you ever done 3 hernia surgeries with the use of graft 4 materials? 5 A. Abdominal hernias? 6 Q. Yes. 7 A. Umbilical, yes. 8 Q. Okay. How many? 9 A. A handful. 10 Q. When did you do those? 11 A. In conjunction with 12 laparoscopic hysterectomies and one 13 C-section or two back in the day. 14 Q. Okay. And do you know what 15 mesh products you used? 16 A. Absolutely not. 17 Q. No idea? 18 A. I can't recall. 19 Q. So you can't say if it was 20 the same type of mesh that's used in the 21 Prolift product? 22 A. I -- from what I can recall, 23 these were little disks that had -- that 24 were much more rigid that had a -- they</p>	<p style="text-align: right;">Page 197</p> <p>1 A. I can say it's different, 2 and, you know, I don't have to be an 3 expert in hernia repair to know that 4 there's a difference. 5 Q. Right. And you say they're 6 different, and would that be the extent 7 of your opinions about them being 8 different? Could you explain that 9 further than you already have? 10 A. No. Not very well. 11 Q. Right. And, likewise, could 12 you describe similarities between them 13 other than saying that they're both mesh? 14 A. If I had the characteristics 15 of each, I might be a little bit more 16 eloquent but... 17 Q. Do you intend to offer any 18 opinions about the similarities between 19 them at trial? 20 A. I do not. 21 Q. Okay. Do you intend to 22 offer any opinions whatsoever about the 23 use of mesh in hernia repairs at trial? 24 MR. MORIARTY: Objection.</p>

<p style="text-align: right;">Page 198</p> <p>1 A. I don't think so.</p> <p>2 MR. MORIARTY: Form.</p> <p>3 Q. Well, now is my chance to</p> <p>4 find out so if you're going to, I'd like</p> <p>5 to know.</p> <p>6 A. I don't think so, no.</p> <p>7 MR. MORIARTY: She's going</p> <p>8 to answer whatever questions we</p> <p>9 pose to her.</p> <p>10 Q. Well, Doctor, you're limited</p> <p>11 to your report and what you say here in</p> <p>12 this deposition. So do you have any</p> <p>13 opinions you intend to offer about hernia</p> <p>14 meshes at the time of trial?</p> <p>15 A. Other than the hernia mesh</p> <p>16 that I used were different than Prolift,</p> <p>17 no.</p> <p>18 Q. Okay. And we talked a</p> <p>19 little bit about the size and you said</p> <p>20 that they were smaller, correct?</p> <p>21 A. Correct, because the hernia</p> <p>22 was small.</p> <p>23 Q. Correct. Do you understand</p> <p>24 what the term "mesh load" means?</p>	<p style="text-align: right;">Page 200</p> <p>1 greater on the patient's body, correct?</p> <p>2 A. That would be correct. The</p> <p>3 total amount of mesh implanted would be</p> <p>4 larger in a larger mesh than in a smaller</p> <p>5 mesh, yes.</p> <p>6 Q. Okay. Have you looked at</p> <p>7 any of the information about what Ethicon</p> <p>8 knew about the mesh load of the Prolift</p> <p>9 in a woman's body?</p> <p>10 A. I don't recall what they</p> <p>11 knew.</p> <p>12 Q. Okay. Do you know what</p> <p>13 Ethicon knew about the inflammatory</p> <p>14 reaction caused by the implantation of</p> <p>15 Prolift in a woman's body?</p> <p>16 A. I remember reading that</p> <p>17 there was an inflammatory response, and</p> <p>18 it happened with Gynemesh, and it</p> <p>19 happened with other types of mesh as</p> <p>20 well.</p> <p>21 Q. Do you know any -- have any</p> <p>22 information about the severity of that</p> <p>23 inflammatory response?</p> <p>24 A. I don't have a particular</p>
<p style="text-align: right;">Page 199</p> <p>1 A. Broadly, yes.</p> <p>2 Q. Okay. Tell me what your</p> <p>3 understanding is?</p> <p>4 A. From the -- I think it is a</p> <p>5 surface measurement, bidimensional.</p> <p>6 Q. Do you understand that when</p> <p>7 you implant mesh in a person's body, a</p> <p>8 patient's body, that there will be a</p> <p>9 natural inflammatory reaction to the</p> <p>10 foreign body?</p> <p>11 A. Yes, I do.</p> <p>12 Q. Okay. Do you understand</p> <p>13 that if there's more foreign body or more</p> <p>14 mesh implanted, there will be more of an</p> <p>15 inflammatory response, correct?</p> <p>16 A. Proportional to the size of</p> <p>17 the mesh, yes.</p> <p>18 Q. So if you implant something</p> <p>19 larger than a small disk, there will be</p> <p>20 an inflammatory response larger</p> <p>21 proportional to the amount of mesh you</p> <p>22 implant in a person's body, correct?</p> <p>23 A. That assumption is correct.</p> <p>24 Q. The mesh load would be</p>	<p style="text-align: right;">Page 201</p> <p>1 number when you say severity, but every</p> <p>2 woman is different. So there will be</p> <p>3 inflammatory response in every woman, but</p> <p>4 the amount will vary, and I don't know if</p> <p>5 we -- I don't think we can predict and</p> <p>6 have an exact number of how much</p> <p>7 inflammation a particular woman will have</p> <p>8 related to a particular product.</p> <p>9 Q. Understanding that all women</p> <p>10 are different, do you know that Ethicon</p> <p>11 knew that the inflammatory reaction could</p> <p>12 be chronic in women after the</p> <p>13 implantation of the Prolift?</p> <p>14 MR. MORIARTY: Objection.</p> <p>15 A. Sorry. Did I know at the</p> <p>16 time in 2005 or 2006?</p> <p>17 Q. Yeah.</p> <p>18 A. No, I did not.</p> <p>19 Q. As a surgeon, would you have</p> <p>20 liked to have known that they knew the</p> <p>21 implantation of the Prolift could cause a</p> <p>22 chronic inflammatory reaction in your</p> <p>23 patients?</p> <p>24 MR. MORIARTY: Objection.</p>

<p style="text-align: right;">Page 202</p> <p>1 A. I would have wanted to know.</p> <p>2 Q. Right. And if that chronic</p> <p>3 inflammatory reaction could have led to</p> <p>4 rigid scar tissue formation, would you</p> <p>5 have wanted to know that?</p> <p>6 MR. MORIARTY: Objection.</p> <p>7 A. Depending on severity and</p> <p>8 clinical consequences, yes.</p> <p>9 Q. If Ethicon -- if the French</p> <p>10 surgeons who designed Prolift for Ethicon</p> <p>11 had concerns about this rigid scar tissue</p> <p>12 as a severe complication in women, would</p> <p>13 you have wanted to know that as a surgeon</p> <p>14 before you started implanting the Prolift</p> <p>15 device in your patients?</p> <p>16 MR. MORIARTY: Objection.</p> <p>17 A. Yes. Depending on the</p> <p>18 percentage, yes.</p> <p>19 Q. Right. Because it's</p> <p>20 something you would have wanted to have</p> <p>21 in your mind when deciding whether or not</p> <p>22 to use the Prolift?</p> <p>23 A. That would have been a</p> <p>24 factor, yes.</p>	<p style="text-align: right;">Page 204</p> <p>1 did I say? Gyne --</p> <p>2 Q. You said Gynemesh is not</p> <p>3 defective.</p> <p>4 A. Gynemesh. The intended use</p> <p>5 for Gynemesh in pelvic floor repair, it</p> <p>6 performed according to what it was</p> <p>7 intended to do. It's not going to break</p> <p>8 down. It's not going to explode. It's</p> <p>9 not -- so that's what I meant by</p> <p>10 defective. It will have risks as in any</p> <p>11 foreign body would, but I don't think</p> <p>12 that the Gynemesh is, in itself,</p> <p>13 inherently defective.</p> <p>14 Q. Do you believe the Prolift</p> <p>15 system as marketed was defective?</p> <p>16 MR. MORIARTY: Objection.</p> <p>17 Go ahead.</p> <p>18 A. In general, no.</p> <p>19 Q. Do you have some caveat?</p> <p>20 What do you mean by in general?</p> <p>21 A. Well, this is quite a broad</p> <p>22 statement. You said -- can we repeat</p> <p>23 what your statement was?</p> <p>24 Q. Sure. The Prolift system as</p>
<p style="text-align: right;">Page 203</p> <p>1 Q. And it's something you would</p> <p>2 have had in your mind when counseling</p> <p>3 patients about their choice as to whether</p> <p>4 or not to get a Prolift implanted?</p> <p>5 A. Yes. It would have been</p> <p>6 part of my discussion.</p> <p>7 Q. One of the things you said</p> <p>8 in your report is that Gynemesh is not</p> <p>9 defective, your words, because a small</p> <p>10 percentage of patients experience mesh</p> <p>11 exposures or other well-known and</p> <p>12 acceptable complications.</p> <p>13 Can you define for me what</p> <p>14 you meant by defective?</p> <p>15 A. Relating to Mrs. Patricia</p> <p>16 Hammons?</p> <p>17 Q. It's your words. I'm</p> <p>18 reading your sentence. You said Gynemesh</p> <p>19 is not defective, and I want to know what</p> <p>20 you meant by defective?</p> <p>21 A. I meant that it is not a bad</p> <p>22 product, that its intended use for pelvic</p> <p>23 floor repair has value, and this Gyne --</p> <p>24 Gynecare product or Prolift or -- what</p>	<p style="text-align: right;">Page 205</p> <p>1 marketed?</p> <p>2 A. As marketed. Okay.</p> <p>3 Q. So the Prolift device that</p> <p>4 came in a box with the trocars --</p> <p>5 A. Right.</p> <p>6 Q. -- and the instructions for</p> <p>7 use, do you believe the Prolift system,</p> <p>8 that's what I'm referring to when you</p> <p>9 would pull one off the shelf --</p> <p>10 A. Right.</p> <p>11 Q. -- was defective?</p> <p>12 A. No. I do not believe it was</p> <p>13 defective.</p> <p>14 Q. Okay.</p> <p>15 MS. BALDWIN: Why don't we</p> <p>16 take a break. We have to change</p> <p>17 the tape in two minutes, so we</p> <p>18 might as well switch tapes.</p> <p>19 THE VIDEOGRAPHER: The time</p> <p>20 is now 1:19, and this concludes</p> <p>21 DVD number 2.</p> <p>22 (A lunch break was taken.)</p> <p>23 THE VIDEOGRAPHER: The time</p> <p>24 is now 1:47, and this is the</p>

<p style="text-align: right;">Page 206</p> <p>1 beginning of DVD number 3.</p> <p>2 BY MS. BALDWIN:</p> <p>3 Q. Dr. Drolet, at the break I</p> <p>4 was looking through the invoices for</p> <p>5 payment that you gave me at the very</p> <p>6 beginning of the deposition, and I</p> <p>7 noticed that they go up to work performed</p> <p>8 as of October 31st, 2015.</p> <p>9 The prep sessions you did</p> <p>10 for today's deposition, were those after</p> <p>11 October 31st, 2015?</p> <p>12 A. The one for yesterday was.</p> <p>13 Last week would have been still November,</p> <p>14 so that would have been after.</p> <p>15 Q. So you haven't billed for</p> <p>16 that time yet?</p> <p>17 A. I have not.</p> <p>18 Q. And will you be billing at</p> <p>19 the same rate for the dep prep sessions?</p> <p>20 A. I think we have an</p> <p>21 agreement. I'd have to talk to Attorney</p> <p>22 Rosenblatt because nothing is in writing.</p> <p>23 Q. Okay.</p> <p>24 A. Because there are blocks of</p>	<p style="text-align: right;">Page 208</p> <p>1 A. Some of it, yes. Some of</p> <p>2 it, no.</p> <p>3 Q. Okay. Why would you not</p> <p>4 bill for all of it?</p> <p>5 A. Because some of it, I think,</p> <p>6 is just to reassure me at bedtime, so my</p> <p>7 bedtime reading.</p> <p>8 Q. Gotcha.</p> <p>9 A. And I don't think that's</p> <p>10 fair.</p> <p>11 Q. Gotcha. We were talking</p> <p>12 just before the break about whether you</p> <p>13 believe the Prolift device is defective,</p> <p>14 and I think I called it the Prolift</p> <p>15 system. And you said in general, no.</p> <p>16 What did you mean by that?</p> <p>17 MR. MORIARTY: Objection.</p> <p>18 Asked and answered.</p> <p>19 Q. You can go ahead.</p> <p>20 A. I mean that the benefits</p> <p>21 outweigh the risks, and there are risks</p> <p>22 with any product, so no. It is not a</p> <p>23 defective product.</p> <p>24 Q. Okay. And you're saying the</p>
<p style="text-align: right;">Page 207</p> <p>1 time where it's a fee.</p> <p>2 Q. A fee for, like, say, dep</p> <p>3 prep?</p> <p>4 A. Correct.</p> <p>5 Q. What is your fee for giving</p> <p>6 a deposition?</p> <p>7 A. I'd have to call Attorney</p> <p>8 Rosenblatt, but I think -- I know trial</p> <p>9 would be for the whole day and that would</p> <p>10 be 5,000.</p> <p>11 Q. You're just not sure about</p> <p>12 how much here for the deposition?</p> <p>13 A. Correct. He didn't send</p> <p>14 anything in writing.</p> <p>15 Q. Other than the deposition</p> <p>16 prep sessions you've had and the</p> <p>17 deposition that we're here at today, have</p> <p>18 you done other work in the case in</p> <p>19 November that hasn't been billed for yet?</p> <p>20 A. Well, I've read or re-read</p> <p>21 articles and read my report, read</p> <p>22 documents.</p> <p>23 Q. Okay. So will you be</p> <p>24 billing for that time?</p>	<p style="text-align: right;">Page 209</p> <p>1 benefits outweigh the risks as far as the</p> <p>2 risks that you're aware of?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. And that would</p> <p>5 include the severity, frequency and</p> <p>6 treatability of risks that you're aware</p> <p>7 of?</p> <p>8 A. And that have been written</p> <p>9 in the literature.</p> <p>10 Q. The literature that was</p> <p>11 provided to you by Ethicon?</p> <p>12 A. And through the years the</p> <p>13 literature that I have read as a surgeon.</p> <p>14 Q. What literature have you</p> <p>15 read that you intend to rely on?</p> <p>16 A. What I have read over the</p> <p>17 years, I can't begin to count. My</p> <p>18 general experience as a surgeon and with</p> <p>19 talking to colleagues and with</p> <p>20 discussions and with reading of different</p> <p>21 articles overall. My surgical</p> <p>22 experience, my patient experience, the</p> <p>23 referrals I get, all of that.</p> <p>24 Q. Okay. I understand your</p>

<p style="text-align: right;">Page 210</p> <p>1 answer, but today's my chance to find out 2 what you intend to testify to at 3 deposition, so are there any -- 4 A. At deposition? 5 Q. Or at trial. 6 A. Okay. 7 Q. I'm sorry. Thank you. At 8 trial. 9 So at trial are there any 10 articles that aren't on your reliance 11 list or in that e-mail that was sent that 12 you intend to rely on? 13 A. Not that I know as of now. 14 Q. Okay. You can't think of 15 any offhand? 16 A. I cannot think of any 17 offhand as of this minute. 18 Q. Okay. And one of the things 19 you told me before the break is that 20 Gynemesh was not defective because it 21 wouldn't break down or explode. Do you 22 recall that testimony? 23 A. I do, yes. 24 Q. Okay. Do you know what the</p>	<p style="text-align: right;">Page 212</p> <p>1 Q. Okay. Are you aware that 2 there is a risk of degradation with the 3 Prolift? 4 MR. MORIARTY: Objection. 5 Go ahead. 6 A. Is there a theoretical risk? 7 Yes. 8 Q. Okay. Are you aware that -- 9 I'm sorry. I cut you off. 10 A. I am aware that they -- 11 somewhere in those boxes of documents 12 they mention it. Is it clinically 13 significant relevant? So far, not in my 14 experience as a surgeon. 15 Q. Right. Based on the 16 documents that were given to you by 17 Ethicon? 18 A. That would be correct. 19 Q. Right. So when you -- when 20 we're using the term "degradation," how 21 do you define that? 22 A. That the mesh would lose its 23 supportive properties or be absorbed 24 which it is not absorbed.</p>
<p style="text-align: right;">Page 211</p> <p>1 degradation rates are of the Gynemesh 2 that's used in the Prolift device? 3 MR. MORIARTY: Objection. 4 Go ahead. 5 A. In clinical situation, I do 6 not. 7 Q. Okay. Do you know what 8 rates Ethicon was aware of when it put 9 Prolift on the market for degradation? 10 MR. MORIARTY: Objection. 11 MS. BALDWIN: I'm not sure I 12 said that right. Let me just 13 re-ask it because I think the 14 words got mixed up in my head. 15 BY MS. BALDWIN: 16 Q. Are you aware of what rates 17 of degradation Ethicon was aware of when 18 it put Prolift on the market for the 19 product? 20 A. I was not aware -- 21 MR. MORIARTY: Objection. 22 A. -- of what rates of 23 degradation they were aware of before 24 they put it on the market.</p>	<p style="text-align: right;">Page 213</p> <p>1 Q. So by loss of its supportive 2 properties, you mean it would break down 3 from its intended use? 4 A. That is a definition of 5 degradation. I don't know if it's the 6 degradation that Ethicon used. 7 Q. Is that your understanding 8 of what it means to degrade? 9 A. Part of it, yes. 10 Q. Okay. What's the other 11 part? 12 A. That it would fragment. 13 That could be another way that a 14 particular product theoretically could 15 degrade. 16 Q. Do you know that there's a 17 risk of Prolift mesh fragmenting? 18 MR. MORIARTY: Objection. 19 A. I do not. 20 Q. If Ethicon has knowledge 21 that there are clinically significant 22 risks of fragmenting with its Prolift 23 mesh, should it have warned of those 24 risks?</p>

<p style="text-align: right;">Page 214</p> <p>1 MR. MORIARTY: Objection.</p> <p>2 A. If those risks were</p> <p>3 clinically significant or relevant, I</p> <p>4 would have wanted to know. What they're</p> <p>5 obliged to reveal or not at the corporate</p> <p>6 level, I don't know.</p> <p>7 Q. I think we --</p> <p>8 A. I want to know, but...</p> <p>9 Q. Right. I think we</p> <p>10 understand you can't say at the corporate</p> <p>11 level what they're required to do. You</p> <p>12 don't have that expertise?</p> <p>13 A. That would be correct.</p> <p>14 Q. You're sitting here</p> <p>15 testifying today as a pelvic floor</p> <p>16 surgeon with years of experience,</p> <p>17 correct?</p> <p>18 A. That would be correct.</p> <p>19 Q. About information you would</p> <p>20 have wanted to know, correct?</p> <p>21 A. Yes.</p> <p>22 Q. So for all the risks that</p> <p>23 we've talked about, if there's a</p> <p>24 clinically significant risk --</p>	<p style="text-align: right;">Page 216</p> <p>1 surgeon on the planet, but yes.</p> <p>2 Q. Do you believe there's</p> <p>3 surgeons out there who don't want to know</p> <p>4 the clinically significant risks of a</p> <p>5 product?</p> <p>6 A. I believe that most surgeons</p> <p>7 would want, yes, clinically relevant.</p> <p>8 Q. Clinically significant?</p> <p>9 A. Clinically significant as</p> <p>10 well.</p> <p>11 Q. Would it be unreasonable if</p> <p>12 Ethicon had knowledge of clinically</p> <p>13 significant risks that it did not include</p> <p>14 in its labeling for the Prolift?</p> <p>15 MR. MORIARTY: Objection.</p> <p>16 A. Did you say would it be</p> <p>17 reasonable or unreasonable.</p> <p>18 Q. Unreasonable?</p> <p>19 A. Okay. So would it be</p> <p>20 unreasonable -- can you repeat the rest</p> <p>21 of the question, please?</p> <p>22 Q. Sure. Sorry. I do this. I</p> <p>23 start to talk quickly.</p> <p>24 Would it be unreasonable if</p>
<p style="text-align: right;">Page 215</p> <p>1 A. Yes.</p> <p>2 Q. -- for the Prolift, as a</p> <p>3 surgeon, you would have wanted that to be</p> <p>4 in the labeling for the Prolift?</p> <p>5 A. If it was clinically</p> <p>6 relevant, yes.</p> <p>7 Q. And it would be reasonable</p> <p>8 for a manufacturer to include clinically</p> <p>9 significant risks in its labeling,</p> <p>10 correct?</p> <p>11 MR. MORIARTY: Objection.</p> <p>12 Go ahead.</p> <p>13 A. What I want as a surgeon and</p> <p>14 what they need to put in in their</p> <p>15 labeling may be two different things. I</p> <p>16 don't know.</p> <p>17 Q. One would hope they'd be</p> <p>18 similar, correct?</p> <p>19 A. In an ideal world, yes.</p> <p>20 Q. One would hope that the</p> <p>21 required label would be what a surgeon</p> <p>22 would want to see, correct?</p> <p>23 MR. MORIARTY: Objection.</p> <p>24 A. We would have to ask every</p>	<p style="text-align: right;">Page 217</p> <p>1 Ethicon had knowledge of clinically</p> <p>2 significant risks with the Prolift to not</p> <p>3 include them in the labeling?</p> <p>4 MR. MORIARTY: Objection.</p> <p>5 A. Would it be unreasonable for</p> <p>6 them not to include it?</p> <p>7 Q. Yes.</p> <p>8 A. I can't answer that question</p> <p>9 because I can't understand the double</p> <p>10 negatives.</p> <p>11 Q. If Ethicon had clinically</p> <p>12 significant information --</p> <p>13 A. Yes.</p> <p>14 Q. -- about the risks of the</p> <p>15 Prolift product --</p> <p>16 A. Yes.</p> <p>17 Q. -- and it failed to include</p> <p>18 those in its labelings, is that</p> <p>19 unreasonable?</p> <p>20 MR. MORIARTY: Objection.</p> <p>21 A. It wouldn't be good,</p> <p>22 correct.</p> <p>23 Q. What do you mean by it</p> <p>24 wouldn't be good?</p>

<p style="text-align: right;">Page 218</p> <p>1 A. I don't know what you mean 2 by unreasonable. 3 Q. Okay. 4 A. So I would want to know the 5 clinically relevant risks or 6 complications. 7 Q. When we talk about labelings 8 of a product, a label should include the 9 clinically significant risks of a 10 product, correct? 11 A. Yes. 12 Q. When we talk about the 13 adequacy of a labeling, a term of art 14 that's often used is whether a label is 15 reasonable. Have you ever heard that 16 term before? 17 A. I've heard the term 18 "reasonable," but I don't know your 19 definition of reasonable. 20 Q. Okay. From your 21 expertise -- 22 A. Yes. 23 Q. -- as a gynecologic 24 surgeon --</p>	<p style="text-align: right;">Page 220</p> <p>1 MR. MORIARTY: Objection. 2 A. What do you mean by 3 dangerous? 4 Q. Presenting a danger to human 5 beings? 6 A. I would have wanted them to 7 mention those risks. 8 Q. Why? 9 A. Because if these risks were 10 very different, unpredictable and 11 occurring in a high percentage of women, 12 it depends on the frequency, severity. I 13 would have wanted to know. 14 Q. Why would you have wanted to 15 know? 16 A. That would have influenced 17 my decision to use a particular product 18 in a particular patient for a particular 19 reason. 20 Q. One of the things that you 21 discussed in your report was that pelvic 22 floor surgeons know the risks by virtue 23 of their basic medical education and 24 training, and I think you're referring to</p>
<p style="text-align: right;">Page 219</p> <p>1 A. Yes. 2 Q. -- in order for a label of a 3 medical device to be adequate, should it 4 contain all of the manufacturer's 5 knowledge about clinically significant 6 risks? 7 MR. MORIARTY: Objection. 8 A. I would want to know, that 9 are specific to that particular product. 10 Q. Correct. If Ethicon had 11 knowledge of clinically significant risks 12 specific to the Prolift that it believed 13 were novel to the Prolift, would you have 14 wanted those to be included in the 15 labeling? 16 MR. MORIARTY: Objection. 17 Asked and answered. Go ahead. 18 A. I would have wanted to know. 19 In an ideal world, yes. 20 Q. Would it be dangerous for 21 Ethicon to market the Prolift if they had 22 knowledge of clinically significant 23 consequences that it wasn't warning 24 physicians about?</p>	<p style="text-align: right;">Page 221</p> <p>1 the risks of the Prolift. Is that 2 correct? 3 A. No. If I could have my -- 4 Q. Sure. 5 A. -- a copy of my report just 6 to put it back in context, please. 7 Q. No. Absolutely. 8 MS. BALDWIN: Matt, do you 9 need a copy of this? I have one 10 if you want the paper? 11 MR. MORIARTY: No thanks. 12 (Whereupon, a document was 13 marked for identification as 14 Drolet Exhibit No. 11.) 15 MR. MORIARTY: What are we 16 up to? Ten? 17 MS. BALDWIN: I think that's 18 11? 19 THE WITNESS: This is 11. 20 BY MS. BALDWIN: 21 Q. Let me see if I can turn to 22 the page. Hang on a second. 23 I have this sentence in 24 here. Try education and training.</p>

<p style="text-align: right;">Page 222</p> <p>1 Virtue might be my word. 2 Here we go. At the bottom 3 of page 6, very last paragraph, so we're 4 at the paragraph that starts "the Prolift 5 IFU." Do you see where I am? 6 A. Yes. 7 Q. Okay. The very last 8 sentence, and it starts "pelvic floor." 9 It's the very end of page 6. Do you see 10 that? 11 A. Yes. 12 Q. Pelvic floor, and then the 13 next page, surgeons would know of the 14 risks of pain and dyspareunia by way of 15 their basic medical education and 16 training and would also know that pain 17 and dyspareunia are potential risks from 18 infection, inflammation, adhesion 19 formation, fistula formation, erosion, 20 extrusion and scarring that results in 21 implant contraction and that all of these 22 potential complications may need 23 reparative surgery. 24 Did I read that correctly?</p>	<p style="text-align: right;">Page 224</p> <p>1 yes. 2 Q. And if they had knowledge 3 that the risks of pain and dyspareunia 4 were somehow new, novel, different than 5 what was being seen from the general 6 risks of other pelvic floor surgeries, 7 should they have shared that in their 8 labeling? 9 MR. MORIARTY: Objection. 10 A. Well, pain and dyspareunia 11 would not be novel, would not be new to 12 Prolift. Erosions were seen with 13 Gynecare -- Gynemesh, pardon me, and so 14 with our training and experience, we're 15 able to put those things together. 16 Q. My question is a little 17 different, though. 18 A. Okay. 19 Q. Let's focus on this. Piet 20 Hinoul who worked at Ethicon was 21 important in the development of the 22 Prolift device. Did you read his 23 deposition? 24 A. No, I did not. I didn't</p>
<p style="text-align: right;">Page 223</p> <p>1 A. Yes, you did. 2 Q. Okay. So my question for 3 you was: Do you believe that pelvic 4 floor surgeons would know of the risks of 5 pain and dyspareunia based on their 6 education and training about all pelvic 7 floor surgeries? 8 A. All pelvic floor surgeries 9 that they were trained on, yes. 10 Q. Okay. So for any particular 11 doctor, they should know generally that 12 pain and dyspareunia is a risk of pelvic 13 floor surgery, correct? 14 A. That statement would be 15 correct. 16 Q. If Ethicon had information 17 that the risks of pain and dyspareunia 18 that were specific to the Prolift were 19 different in severity or frequency than 20 the general risk, would you have liked to 21 have known that as a surgeon? 22 MR. MORIARTY: Objection. 23 Go ahead. 24 A. If it was very different,</p>	<p style="text-align: right;">Page 225</p> <p>1 have it. 2 Q. Okay. Reading from his 3 deposition, they marked an exhibit and 4 then asked him about it. It was an 5 e-mail, and they asked him: You say the 6 introduction of these new biomaterials in 7 pelvic reconstructive surgery, however, 8 has introduced a new kind of morbidity 9 related to the materials used. 10 Do you see that? And he 11 answered: Yes. 12 MR. MORIARTY: Objection. 13 What page are you talking about? 14 MS. BALDWIN: I'm sorry. 15 Page 457. 16 MR. MORIARTY: This is of 17 Hinoul? 18 MS. BALDWIN: Hinoul. 19 MR. MORIARTY: Do you know 20 what date? 21 MS. BALDWIN: I don't -- oh, 22 yes, I do. June 27th, 2013. 23 BY MS. BALDWIN: 24 Q. So going back to that.</p>

<p style="text-align: right;">Page 226</p> <p>1 A. Are they talking about 2 Gynemesh or are they talking about 3 Prolift? 4 Q. The Gynemesh that is used in 5 Prolift. 6 A. Okay. 7 Q. Okay. So they asked him: 8 Has introduced a new kind of morbidity 9 related to materials used? Answer: Yes. 10 Mr. Hinoul knew they were 11 new kinds of morbidities. If Ethicon had 12 this knowledge that there were new kinds 13 of morbidities, should it have included 14 information about those new morbidities 15 in its labeling? 16 MR. MORIARTY: Objection. 17 A. As a surgeon, if something 18 was new and clinically significant, I 19 would want to know. 20 Q. Right. So when they asked 21 him: When you -- 22 MS. BALDWIN: Page 45 now, 23 Matt. 24 Q. When you refer to a new kind</p>	<p style="text-align: right;">Page 228</p> <p>1 significant, were their warnings 2 inadequate because they did not include 3 that information? 4 MR. MORIARTY: Objection. 5 Go ahead. 6 A. I would have wanted to know. 7 As far as the inadequacy of warnings, I 8 can't answer that question. 9 Q. So you can't say whether the 10 warning was adequate based on what the 11 company knew? 12 MR. MORIARTY: Objection. 13 Go ahead. 14 A. I would not have known at 15 that time. 16 Q. As an expert, do you intend 17 to offer any opinions about the adequacy 18 of the labeling of the Prolift product? 19 MR. MORIARTY: Objection. 20 That's in her report. 21 A. I think -- I think there was 22 enough information clinically, and for me 23 as a surgeon, I can't judge what is 24 totally inadequate for that particular</p>
<p style="text-align: right;">Page 227</p> <p>1 of morbidity, you're talking about 2 morbidity that had not existed before 3 with this type of surgery, meaning the 4 Prolift implant, correct? 5 And he said: That is 6 specific to the use of the mesh as 7 opposed to something if you don't use it, 8 you cannot have any related morbidity, 9 yes. 10 He's saying there's a new 11 morbidity. 12 A. Okay. 13 Q. And that's information you 14 would have liked to have known as a 15 surgeon, correct? 16 MR. MORIARTY: Objection. 17 Go ahead. 18 A. Yes. As a surgeon, I would 19 have wanted to know. 20 Q. As a pelvic floor surgeon 21 with experience in the Prolift device, if 22 Ethicon had information about new 23 morbidities associated with the Prolift 24 that it believed were clinically</p>	<p style="text-align: right;">Page 229</p> <p>1 product labeling because it does warn of 2 multiple side effects coupled with what, 3 as a surgeon, I have with experience, 4 with my experience. And the training I 5 went to with Dr. Lucente, I think -- I 6 think was adequate at the time with what 7 we knew. 8 Q. Okay. When you say "we," 9 you're talking about you? 10 A. Correct. 11 Q. Specific to your training 12 and your experience, correct? 13 A. Yes. 14 Q. Correct. But you cannot 15 speak to what Ethicon knew, correct? 16 A. That would be correct. 17 Q. Because you were not 18 provided those materials, correct? 19 A. That would be correct. 20 Q. So you cannot offer any 21 opinions about the adequacy of the 22 labeling with respect to what Ethicon 23 knew, correct? 24 MR. MORIARTY: Objection.</p>

<p style="text-align: right;">Page 230</p> <p>1 Go ahead.</p> <p>2 A. With respect to what Ethicon</p> <p>3 knew, that would have been correct. That</p> <p>4 would be correct.</p> <p>5 Q. And you cannot offer any</p> <p>6 opinions about whether this labeling was</p> <p>7 reasonable with respect to what Ethicon</p> <p>8 knew because you have no idea what</p> <p>9 Ethicon knew?</p> <p>10 MR. MORIARTY: Objection.</p> <p>11 Go ahead.</p> <p>12 A. With respect to what Ethicon</p> <p>13 knew and not, that would be correct.</p> <p>14 Q. You can't offer an opinion</p> <p>15 as to the reasonableness of the label</p> <p>16 with respect to what Ethicon knew?</p> <p>17 A. From Ethicon's point of</p> <p>18 view, I am not qualified as an expert for</p> <p>19 that. As a surgeon, that's different.</p> <p>20 Q. Right. As a surgeon, based</p> <p>21 on your own training, you can speak to</p> <p>22 that?</p> <p>23 A. That would be correct.</p> <p>24 Q. And I've asked you a hundred</p>	<p style="text-align: right;">Page 232</p> <p>1 monograph?</p> <p>2 MR. MORIARTY: Objection.</p> <p>3 Go ahead.</p> <p>4 A. I don't have independent</p> <p>5 knowledge of that. I would have to refer</p> <p>6 to his deposition and what he recalls.</p> <p>7 Q. Okay. If he doesn't recall</p> <p>8 ever seeing it, do you have a reason to</p> <p>9 dispute that?</p> <p>10 A. No, I do not.</p> <p>11 Q. Okay. And going back to</p> <p>12 those Prolift professional education</p> <p>13 slide decks. We talked about them quite</p> <p>14 a few hours ago. There were different</p> <p>15 versions of those, correct?</p> <p>16 A. Apparently. I don't know.</p> <p>17 Q. Okay. Do you have any</p> <p>18 information of how Ethicon was getting</p> <p>19 those slide decks in front of physicians?</p> <p>20 A. Via the sales rep.</p> <p>21 Q. Do you know if the sales</p> <p>22 reps were required to give the updated</p> <p>23 slide deck presentations to every</p> <p>24 physician who was using the Prolift</p>
<p style="text-align: right;">Page 231</p> <p>1 questions and I won't ask them a hundred</p> <p>2 times more about what you would have</p> <p>3 liked to have seen, correct?</p> <p>4 A. Yes. That would be correct.</p> <p>5 Q. And if I asked you questions</p> <p>6 again, the answers would be the same?</p> <p>7 A. Yes. That would be, I would</p> <p>8 hope so, correct.</p> <p>9 Q. I want to talk about the</p> <p>10 surgeon's resource monograph. It was a</p> <p>11 document that you referenced in here.</p> <p>12 Are you familiar with that?</p> <p>13 A. I have read it, yes.</p> <p>14 Q. Okay. I don't want to put</p> <p>15 it in front of you because I don't want</p> <p>16 to go through the details of it. I want</p> <p>17 to know what your understanding is of how</p> <p>18 it was distributed to physicians by</p> <p>19 Ethicon?</p> <p>20 A. I don't know how Ethicon</p> <p>21 distributed to their general physicians.</p> <p>22 Q. Okay. Do you have any</p> <p>23 knowledge of whether or not Dr. Baker</p> <p>24 ever got the surgeon's resource</p>	<p style="text-align: right;">Page 233</p> <p>1 product?</p> <p>2 A. No. I do not know that.</p> <p>3 Q. Okay. If the slide decks</p> <p>4 were the way that Ethicon was</p> <p>5 communicating its warnings, did it have a</p> <p>6 responsibility to provide the updated</p> <p>7 slide decks to all the physicians who</p> <p>8 were using its product when they issued</p> <p>9 new ones?</p> <p>10 A. I don't know what their</p> <p>11 guidelines were. As a surgeon, I would</p> <p>12 want to know the latest update if there</p> <p>13 was a clinical significant modification.</p> <p>14 Q. If Dr. Baker testifies he</p> <p>15 doesn't recall seeing particular slide</p> <p>16 decks, do you have a reason to dispute</p> <p>17 that?</p> <p>18 A. No, I do not.</p> <p>19 Q. Do you have any evidence</p> <p>20 that he saw any of the professional</p> <p>21 education slide decks?</p> <p>22 MR. MORIARTY: Objection.</p> <p>23 A. I don't have any evidence</p> <p>24 one way or another.</p>

<p style="text-align: right;">Page 234</p> <p>1 Q. Okay. So in your report you 2 offered a bunch of opinions about the 3 information that was conveyed in those 4 slide decks. 5 A. What do you consider a 6 bunch? 7 Q. Well, on page 7 you say: 8 Also published and made available to 9 physicians are the 2005 and 2007 Prolift 10 pelvic floor repair system slides and the 11 2007 Prolift surgeon's resource 12 monograph. And then you said: Which 13 clearly demonstrate the proper placement 14 of the guiding cannulas, and you talk 15 about that they discuss the increased 16 risks and the complications, right? 17 That's an opinion you offered, correct? 18 A. Yes. 19 Q. So the conveyance of the 20 information that was in those documents 21 would only hold true if Ethicon actually 22 got those documents in the hands of 23 physicians, correct? 24 A. Or the physicians asked for</p>	<p style="text-align: right;">Page 236</p> <p>1 responsibility to keep themselves up to 2 date with the most current literature and 3 what is available. 4 Q. So let's -- 5 A. And -- go ahead. 6 Q. No. I cut you off. I'm 7 sorry. 8 A. I lost my train of thought. 9 Q. I apologize, Doctor. I'm 10 sorry. Let me just ask you some 11 follow-up questions. 12 You said you don't think 13 that they sell the Prolift directly to 14 doctors. Am I correct that Ethicon was 15 selling the Prolift to the hospitals or 16 the facilities where it was being 17 implanted? 18 A. That's what I think. 19 Q. However, they were sending 20 sales reps to detail physicians to 21 encourage the use of the Prolift, 22 correct? 23 A. To encourage the use, that's 24 how I was informed of where to go for</p>
<p style="text-align: right;">Page 235</p> <p>1 it, yes. 2 Q. Correct. But for a 3 physician to ask for it, they would have 4 to know it existed, correct? 5 A. Or they would have to know 6 or ask for another piece of literature. 7 Q. The physician would have to 8 take it on themselves to go to the sales 9 reps and say, have you guys updated your 10 warnings? Are you aware of any more 11 serious warnings, and if so, can you give 12 me those documents? 13 A. Or ask for, do you have any 14 literature on it, yes. 15 Q. Is that the responsibility 16 of a doctor to ask the medical device 17 manufacturers who are selling them 18 products what the updated warnings are or 19 when they change? 20 MR. MORIARTY: Objection. 21 Go ahead. 22 A. One, I don't think Ethicon 23 sells the product directly to doctors. 24 And I think it's each physician's</p>	<p style="text-align: right;">Page 237</p> <p>1 training, but they did not push the use 2 of the product. 3 Q. Do you know that the sales 4 reps were targeting physicians to sell 5 the Prolift to? 6 A. I have -- 7 MR. MORIARTY: Objection. 8 Go ahead. 9 A. I had no idea. 10 Q. Do you know that the sales 11 team for the sales reps created 12 spreadsheets where they talked about 13 target physicians that they wanted to 14 start using the product for? 15 A. No, I did not. 16 Q. Did you know that they were 17 targeting physicians in different 18 physical vicinities of the country? 19 A. No, I did not. 20 Q. Did you know that they were 21 targeting physicians based on the type of 22 practice they had? 23 A. I had no idea of their 24 business practice.</p>

<p style="text-align: right;">Page 238</p> <p>1 Q. Did you know that they were 2 targeting physicians based on volume of 3 sales that they could have by a physician 4 using the Prolift product? 5 A. No, I did not. 6 Q. If the Prolift sales reps 7 were targeting physicians who weren't 8 highly experienced pelvic floor repair 9 surgeons, is that a problem for Ethicon? 10 MR. MORIARTY: Objection. 11 A. I don't know what -- what 12 their policies are. 13 Q. If Ethicon had an internal 14 standard that it thought the Prolift was 15 appropriate for highly skilled pelvic 16 floor repair surgeons who did a high 17 volume of pelvic floor repair surgery, 18 are those the doctors you would expect 19 its sales reps to target? 20 MR. MORIARTY: Objection. 21 Go ahead. 22 A. Initially -- initially, I 23 would think so, especially at the time of 24 its launch, yes.</p>	<p style="text-align: right;">Page 240</p> <p>1 you're not our target doctor, and we 2 don't think you should be implanting this 3 because you have an increased risk of 4 complications in your patients? 5 MR. MORIARTY: Objection. 6 A. I think as a surgeon we all 7 evolve our skills, and we all want to 8 learn new techniques, new ideas. We do 9 continuing medical education, but then it 10 has to fall back on us to decide to 11 implant or not those techniques. 12 Q. So if I'm hearing you right, 13 you don't think it was the responsibility 14 of Ethicon to tell generalists that it 15 invited to its training and that it 16 targeted that they were not the intended 17 users of this product and that their 18 complication rates could be higher by 19 virtue of the fact that they were not 20 skilled pelvic floor repair surgeons? 21 MR. MORIARTY: Objection. 22 A. I then don't understand why 23 they would invite them for training. 24 Q. Right. That doesn't make</p>
<p style="text-align: right;">Page 239</p> <p>1 Q. If the reps were then 2 targeting generalists who had low volume 3 of any type of surgery and were not 4 experienced pelvic floor repair surgeons, 5 was that bad of the company to do? 6 MR. MORIARTY: Objection. 7 Go ahead. 8 A. I think -- and, again, I 9 don't know what they were targeting 10 especially, but it's the responsibility 11 of the physician to realize if their 12 surgical skills are up to par; it's the 13 responsibility of the hospital for 14 credentialing. So somebody can try and 15 tell me something, but if I am not an 16 expert in that particular field, it would 17 be up to me to say no. 18 Q. Right. 19 A. Right. 20 Q. But if you were targeted and 21 told we'll train you and you were trained 22 on something, isn't it the responsibility 23 of the person who trained you to say, 24 hey, by the way, we're training you, but</p>	<p style="text-align: right;">Page 241</p> <p>1 any sense, does it? 2 MR. MORIARTY: Objection. 3 A. It wouldn't if Ethicon had 4 only decided to go to high pelvic volume 5 surgeons. 6 Q. Right. If Ethicon decided 7 it wanted to target the Prolift to 8 high-volume, skilled pelvic floor repair 9 surgeons -- 10 A. Forever. 11 Q. -- forever, it wouldn't make 12 any sense for them to then invite 13 generalists to its training? 14 MR. MORIARTY: Objection. 15 A. I don't necessarily a 16 hundred percent agree with that. 17 Q. Okay. You think it makes 18 sense for them? 19 A. No. I mean, there may come 20 a point in somebody's career that they 21 would want to go from low volume to 22 higher volume, get trained, get more 23 experience, get proctored. So I don't 24 know what the company internal rulings or</p>

<p style="text-align: right;">Page 242</p> <p>1 decisions were about this product.</p> <p>2 Q. If Ethicon had information</p> <p>3 that physicians who are not highly</p> <p>4 skilled pelvic floor repair surgeons had</p> <p>5 a much higher complication rate in their</p> <p>6 patients, should it have told doctors</p> <p>7 that when they were training them if they</p> <p>8 were not highly skilled pelvic floor</p> <p>9 repair surgeons?</p> <p>10 MR. MORIARTY: Objection.</p> <p>11 A. I think they should make</p> <p>12 people aware that if you're not a</p> <p>13 high-volume surgeon, and any surgeon</p> <p>14 who's not a high-volume surgeon is going</p> <p>15 to have or may have complications that</p> <p>16 are different than the high-volume</p> <p>17 surgeon.</p> <p>18 Q. If Ethicon knew with the</p> <p>19 Prolift that when nonskilled surgeons</p> <p>20 were using it they saw much higher</p> <p>21 complication rates, clinically</p> <p>22 significant different rates, should it</p> <p>23 have told those nonskilled surgeons if it</p> <p>24 was targeting them for training?</p>	<p style="text-align: right;">Page 244</p> <p>1 Q. Patricia Hammons testified</p> <p>2 that she did not go back to work after</p> <p>3 two weeks, so are you getting that number</p> <p>4 from somewhere?</p> <p>5 A. Just the dates that are</p> <p>6 there, but if she testified that she went</p> <p>7 back not at two weeks, then I have</p> <p>8 nothing to dispute.</p> <p>9 Q. Do you have any reason not</p> <p>10 to believe her testimony that she waited</p> <p>11 the time her doctor told her to wait?</p> <p>12 MR. MORIARTY: Objection.</p> <p>13 A. I don't have anything to</p> <p>14 dispute that at this point in time.</p> <p>15 Q. Do you have any opinion that</p> <p>16 she resumed intercourse too quickly after</p> <p>17 her Prolift implant?</p> <p>18 A. I do not.</p> <p>19 Q. Do you have any opinion that</p> <p>20 she was in any way a noncompliant</p> <p>21 patient?</p> <p>22 A. No. I do not have that</p> <p>23 opinion in general except for smoking.</p> <p>24 Q. Well, there's nothing in the</p>
<p style="text-align: right;">Page 243</p> <p>1 MR. MORIARTY: Objection.</p> <p>2 A. I think it should have made</p> <p>3 them aware.</p> <p>4 Q. That would have been the</p> <p>5 responsible thing for Ethicon to do?</p> <p>6 MR. MORIARTY: Objection.</p> <p>7 A. I think it's something that</p> <p>8 all physicians would have wanted to know.</p> <p>9 Q. Going to Patricia Hammons,</p> <p>10 you reviewed all of her medical records,</p> <p>11 correct?</p> <p>12 A. All of the medical records</p> <p>13 that were provided.</p> <p>14 Q. And included in those were</p> <p>15 some employment records as well?</p> <p>16 A. I saw some, yes.</p> <p>17 Q. Okay. Did you review those?</p> <p>18 A. Most of them, yes.</p> <p>19 Q. Do you have any opinion that</p> <p>20 Patricia Hammons went back to work too</p> <p>21 soon after her Prolift surgery?</p> <p>22 A. If she went back at two</p> <p>23 weeks, that would be much sooner than I</p> <p>24 personally counsel my patients.</p>	<p style="text-align: right;">Page 245</p> <p>1 Prolift warnings that said it's not to be</p> <p>2 used in smokers, correct?</p> <p>3 A. No. Correct. Correct. I'm</p> <p>4 sorry. Correct.</p> <p>5 Q. Right.</p> <p>6 A. Correct.</p> <p>7 Q. There's nothing there about</p> <p>8 absolutely do not use this product in</p> <p>9 smokers, correct?</p> <p>10 A. That would be correct.</p> <p>11 Q. And you were not trained</p> <p>12 that, correct?</p> <p>13 A. No.</p> <p>14 Q. That is not the way the</p> <p>15 product was marketed, correct?</p> <p>16 A. The product was not marketed</p> <p>17 that way.</p> <p>18 Q. In fact, one of the things</p> <p>19 you did was list out all of the risk</p> <p>20 factors, I believe, in your report for</p> <p>21 pelvic organ prolapse, correct?</p> <p>22 A. That would be correct.</p> <p>23 Q. And what are those? I don't</p> <p>24 have the page right in front of me, so</p>

<p style="text-align: right;">Page 246</p> <p>1 why don't you list them out for me?</p> <p>2 A. Genetics, family history,</p> <p>3 vaginal delivery, heavy lifting, smoking,</p> <p>4 chronic coughing, chronic constipation,</p> <p>5 menopause, vaginal atrophy, age, race.</p> <p>6 Q. So Ethicon, when it marketed</p> <p>7 the Prolift for the treatment of pelvic</p> <p>8 organ prolapse, should have anticipated</p> <p>9 that it would be used in women who were</p> <p>10 smokers and did heavy lifting and had</p> <p>11 vaginal deliveries and were heavysset,</p> <p>12 correct?</p> <p>13 A. Yes. Did I forget obesity?</p> <p>14 Q. We can add that to the list,</p> <p>15 and I'll accept it. The point is that</p> <p>16 Ethicon should have been aware of the</p> <p>17 risk factors for pelvic organ prolapse</p> <p>18 when marketing the Prolift for the</p> <p>19 treatment of pelvic organ prolapse,</p> <p>20 correct?</p> <p>21 A. I don't have any reason that</p> <p>22 Ethicon was not aware of those risks.</p> <p>23 Q. Right.</p> <p>24 A. Okay.</p>	<p style="text-align: right;">Page 248</p> <p>1 is now 2:28, and we are going off</p> <p>2 camera.</p> <p>3 (A short break was taken.)</p> <p>4 THE VIDEOGRAPHER: The time</p> <p>5 is now 2:36, and we are back on</p> <p>6 camera.</p> <p>7 BY MS. BALDWIN:</p> <p>8 Q. Doctor, I want to turn now</p> <p>9 to Ms. Hammons' actual Prolift implant</p> <p>10 surgery that she had done by Dr. Baker in</p> <p>11 May of 2009, I believe. And in your</p> <p>12 report you authored the opinion -- I'm</p> <p>13 looking at page 17 of your report, first,</p> <p>14 second, third, fourth paragraph down.</p> <p>15 The first sentence is fine.</p> <p>16 I'm talking about the second</p> <p>17 sentence there; it starts the third line</p> <p>18 down: What is not standard is not</p> <p>19 suspending the vaginal cuff prior to</p> <p>20 closure. The uterosacral ligament should</p> <p>21 have been used to help secure the apical</p> <p>22 portion of the vaginal cuff.</p> <p>23 Did I read that correctly?</p> <p>24 A. Yes, you did.</p>
<p style="text-align: right;">Page 247</p> <p>1 Q. And they certainly didn't</p> <p>2 market the product saying the Prolift is</p> <p>3 contraindicated for women that are</p> <p>4 suffering from any of these symptoms,</p> <p>5 correct, or have any of these risk</p> <p>6 factors?</p> <p>7 A. Not contraindicated in women</p> <p>8 with these risk factors.</p> <p>9 Q. It, in fact, knew that the</p> <p>10 women who would get the Prolift would</p> <p>11 likely have these risk factors?</p> <p>12 A. Have some of these risk</p> <p>13 factors.</p> <p>14 Q. Right. Correct. So by Ms.</p> <p>15 Hammons smoking, that's not outside of</p> <p>16 the normal patient who might need a</p> <p>17 Prolift, correct?</p> <p>18 A. No. That is not.</p> <p>19 Q. Let me just get to the page.</p> <p>20 MS. BALDWIN: Why don't we</p> <p>21 just go off the record for five</p> <p>22 minutes. It will be quicker if I</p> <p>23 can find the pages.</p> <p>24 THE VIDEOGRAPHER: The time</p>	<p style="text-align: right;">Page 249</p> <p>1 Q. So if I'm looking at Dr.</p> <p>2 Baker's note, and I'm just trying to</p> <p>3 understand your opinion here. When he</p> <p>4 says the mesh was then placed and secured</p> <p>5 at the cuff with 2-0 Vicryl and</p> <p>6 anteriorly with 2-0 Vicryl and then the</p> <p>7 vagina was closed with 2-0 Caprosyn,</p> <p>8 that's something different than what</p> <p>9 you're saying here, correct?</p> <p>10 A. That is correct.</p> <p>11 Q. You're saying that he should</p> <p>12 have suspended the vaginal cuff to the</p> <p>13 uterosacral ligament?</p> <p>14 A. That would be correct, in</p> <p>15 order to perform an apical repair.</p> <p>16 Q. Right. Am I correct,</p> <p>17 though, that there's nothing in the</p> <p>18 Prolift labeling that warns that if a</p> <p>19 physician does not suspend the vaginal</p> <p>20 cuff to the uterosacral ligament, it</p> <p>21 presents a risk of bunched, rolled up</p> <p>22 mesh like was found in Ms. Hammons?</p> <p>23 MR. MORIARTY: Objection.</p> <p>24 Go ahead.</p>

<p style="text-align: right;">Page 250</p> <p>1 A. And you said what -- it does 2 not say rolled up, bunched up in the 3 Prolift documentation. 4 Q. Right. None of the Prolift 5 labeling warns of the risks of what could 6 happen if a doctor does not suspend the 7 vaginal cuff to the uterosacral ligament, 8 correct? 9 A. The Prolift itself does not, 10 but the doctor should know that if the 11 uterus prolapses and you do not do an 12 apical repair, the anterior Prolift is 13 not designed to hold up that apex. 14 Q. Right. The anterior Prolift 15 is not indicated for apical repair, 16 correct? 17 A. It is not indicated for 18 apical repair, and it is not indicated to 19 support the apex, either. 20 Q. Right. And that is 21 something that Ethicon needed to provide 22 to the physicians that it trained, that 23 information, correct? 24 MR. MORIARTY: Objection.</p>	<p style="text-align: right;">Page 252</p> <p>1 A. They -- Ethicon made sure 2 that at our training that the mesh has to 3 lie flat and under no tension. And if 4 you don't suspend the apex, just getting 5 up from bed, coughing after general 6 anesthesia will put pressure on that 7 apex, and there's nothing -- let me 8 rephrase this. There's a much higher 9 risk that this mesh would not continue to 10 lie flat. 11 Q. Okay. So you're saying in 12 your training that you went to with Vince 13 Lucente, it was emphasized that the mesh 14 lay flat? 15 A. Yes. 16 Q. Okay. And that it was put 17 in tension free, I think you said? 18 A. Yes. 19 Q. Or without tension? 20 A. Without tension. 21 Q. Okay. Are you aware of the 22 studies that were done on this mesh that 23 no matter what you do, it's impossible to 24 implant the mesh tension free because of</p>
<p style="text-align: right;">Page 251</p> <p>1 A. I don't know if Ethicon was 2 obligated to provide that information. 3 It provided the information that the 4 anterior Prolift is designed for anterior 5 repair. The surgeon who diagnosed an 6 anterior prolapse and a uterine prolapse 7 would or should have known that by not 8 suspending the apex, there would be no 9 support. There would be increased risk 10 of further apical descent and posterior 11 prolapse. 12 Q. Right. So a surgeon based 13 on their general training, not anything 14 Ethicon taught them, should know that if 15 they didn't do an apical repair, there 16 could be further descent of the apex, 17 correct? 18 A. That would be correct. 19 Q. Right, but they would have 20 no way of knowing unless Ethicon told 21 them that if they didn't do that, you 22 could get bunching mesh, correct? 23 MR. MORIARTY: Objection. 24 Go ahead.</p>	<p style="text-align: right;">Page 253</p> <p>1 the tools used for implantation? 2 MR. MORIARTY: Objection. 3 A. I was not aware that Ethicon 4 knew that it was impossible. 5 Q. To implant the mesh tension 6 free? 7 A. Correct. 8 Q. Okay. And one of the things 9 you talked about was that if the apex is 10 not secured, there's an increased risk of 11 problems because the mesh will not lay 12 flat if a woman gets out of bed or 13 participates in other activities like you 14 talked about, correct? 15 A. Or right after surgery, 16 correct. 17 Q. Right. Where does that 18 appear in the labeling that that's going 19 to lead to bunched mesh? 20 A. That -- that statement is 21 not on the labeling. 22 Q. That's something you knew? 23 A. Yes. 24 Q. Right. Based on your</p>

<p style="text-align: right;">Page 254</p> <p>1 experience as a gynecologic surgeon?</p> <p>2 A. That would be correct.</p> <p>3 Q. And your training as a</p> <p>4 gynecologic surgeon?</p> <p>5 A. Yes.</p> <p>6 Q. And you consider yourself a</p> <p>7 high-volume gynecological surgeon?</p> <p>8 A. Yes.</p> <p>9 Q. It's one of the interest</p> <p>10 areas of your practice?</p> <p>11 A. That is correct.</p> <p>12 Q. In fact, you gave up</p> <p>13 obstetrics so you could do more surgery?</p> <p>14 A. Yes.</p> <p>15 Q. And you left Canada to come</p> <p>16 to the United States so you could do more</p> <p>17 surgeries?</p> <p>18 A. That is one of the reasons.</p> <p>19 Q. Right. And so based on all</p> <p>20 of your skill and training and knowledge</p> <p>21 through the years, you knew that fact,</p> <p>22 correct?</p> <p>23 A. Yes.</p> <p>24 Q. You can't possibly speak</p>	<p style="text-align: right;">Page 256</p> <p>1 A. I don't know what the</p> <p>2 responsibility for Ethicon would have</p> <p>3 been in that particular situation.</p> <p>4 Q. As a surgeon, do you think</p> <p>5 it would have been a good idea for the</p> <p>6 manufacturer to share that information</p> <p>7 with generalists it invited to do a</p> <p>8 surgery?</p> <p>9 MR. MORIARTY: Objection.</p> <p>10 A. I don't know that it wasn't</p> <p>11 discussed during the training.</p> <p>12 Q. If it wasn't, don't you</p> <p>13 think it should have been?</p> <p>14 A. I think it's one of the</p> <p>15 aspects of pelvic reconstructive surgery</p> <p>16 that is gaining more and more attention</p> <p>17 now.</p> <p>18 Q. If Ethicon knew that</p> <p>19 information in 2006 and it didn't share</p> <p>20 it with generalists that it invited to</p> <p>21 its Prolift surgery, is that wrong?</p> <p>22 MR. MORIARTY: Objection.</p> <p>23 A. In 2006, wrong? I think it</p> <p>24 would have been good if they had known it</p>
<p style="text-align: right;">Page 255</p> <p>1 what's in the mind of every surgeon or</p> <p>2 every doctor, for that matter, who is</p> <p>3 trained on the Prolift, though, can you?</p> <p>4 MR. MORIARTY: Objection.</p> <p>5 A. I cannot speak to what goes</p> <p>6 on in other people's minds.</p> <p>7 Q. Right. And</p> <p>8 especially -- well, if generalists,</p> <p>9 D.O.s, obstetrician-gynecologists who are</p> <p>10 not high-volume surgeons were going to</p> <p>11 training, you don't know what they knew</p> <p>12 about apical suspension, do you?</p> <p>13 A. I do not know what is in the</p> <p>14 minds of other surgeons who are not</p> <p>15 high-volume surgeons, whether they're</p> <p>16 M.D.s or D.O.s.</p> <p>17 Q. So if Ethicon was targeting</p> <p>18 or inviting generalists to come to</p> <p>19 Prolift training, it had a responsibility</p> <p>20 to tell them, you need to support the</p> <p>21 apex because if you don't, there's an</p> <p>22 increased risk of a lot of problems to</p> <p>23 and include this bunching, correct?</p> <p>24 MR. MORIARTY: Objection.</p>	<p style="text-align: right;">Page 257</p> <p>1 and disseminated the information.</p> <p>2 Q. That's what a reasonable</p> <p>3 medical device manufacturer should do?</p> <p>4 A. I don't know about their</p> <p>5 regulatory system and if they can predict</p> <p>6 every possible scenario, but they do put</p> <p>7 in the 2007 surgeon's resource monograph</p> <p>8 that if a hysterectomy is performed that</p> <p>9 the uterosacral ligaments should be</p> <p>10 retained and should be interposed.</p> <p>11 Q. Right. It uses the word</p> <p>12 "should," correct?</p> <p>13 A. Well, I'd have to look at</p> <p>14 the document just to make sure that I'm</p> <p>15 using the correct word.</p> <p>16 Q. Sure. Which document do you</p> <p>17 want?</p> <p>18 A. Both.</p> <p>19 Q. Which?</p> <p>20 A. The surgical technical guide</p> <p>21 and the Prolift surgeon's research</p> <p>22 monograph.</p> <p>23 Q. Well, how about we start</p> <p>24 with the surgical technical guide. Do</p>

<p style="text-align: right;">Page 258</p> <p>1 you know what date that was released on 2 into the -- was released to doctors? 3 A. I do not know exactly. 4 Q. Do you have any evidence 5 that Dr. Baker got this specific 6 document? 7 MR. MORIARTY: Objection. 8 A. Not personally. 9 Q. Why don't you point me to 10 what you're talking about? 11 A. Well, let's take a look. 12 MR. MORIARTY: Did you mark 13 either of those? 14 MS. BALDWIN: I marked one 15 of them, the surgical technique 16 guide. I'm just trying to get an 17 extra copy for you. Do you want 18 it? 19 MR. MORIARTY: Just to use 20 during the depo. 21 MS. BALDWIN: Sure. 22 MR. MORIARTY: Is that 12? 23 THE WITNESS: Yes. That's 24 what you wrote.</p>	<p style="text-align: right;">Page 260</p> <p>1 attached to the edges of the total 2 implant. 3 Q. So the language that you 4 read, it says: These structures can 5 later be interposed, right? C-A-N? 6 A. Yes, but before that it 7 says: It is recommended -- 8 Q. Right. 9 A. -- that users identify and 10 retain the uterosacral ligaments. 11 Q. Right. It doesn't say they 12 must, they should or it's mandatory, 13 correct, retain the uterosacral 14 ligaments, correct? 15 A. It doesn't say must, should. 16 Q. And, again, when we go to 17 the sentence, these structures can later 18 be interposed between the implant and the 19 vagina, it doesn't say must or should, 20 correct? 21 A. In those sentences, you are 22 correct. 23 Q. And I'm right that there's 24 not any warning language in there that if</p>
<p style="text-align: right;">Page 259</p> <p>1 MS. BALDWIN: Give me a 2 second, Matt. I should have one. 3 (Whereupon, a document was 4 marked for identification as 5 Drolet Exhibit No. 12.) 6 BY MS. BALDWIN: 7 Q. So I'm looking at page 5 of 8 this document. 9 A. So am I. 10 Q. Total repair with vaginal 11 hysterectomy? 12 A. Yes. That's one part, yes. 13 Q. Okay. Is there a point you 14 wanted to point me to that had the 15 language you're referring to? 16 A. The language I was referring 17 to is: A standard vaginal hysterectomy 18 is performed through a pericervical 19 incision. It is recommended that users 20 identify and retain the uterosacral 21 ligaments or other elements of the 22 cardinal ligament complex. Those 23 structures can later be interposed 24 between the implant and the vagina or</p>	<p style="text-align: right;">Page 261</p> <p>1 this recommendation is not followed that 2 there will be complications for the 3 patient, correct? 4 A. Not in that -- not as 5 stated. 6 Q. Right. Correct. 7 Doctor, I think I'd like to 8 go on to the next document. 9 A. All right. 10 Q. And this would be the 11 surgeon's resource monograph. 12 (Whereupon, a document was 13 marked for identification as 14 Drolet Exhibit No. 13.) 15 MR. MORIARTY: I guess I'll 16 take one of those, too, if you're 17 passing them out. 18 MS. BALDWIN: Yep. Let me 19 just get my copy in front of me. 20 Too many documents. Here we are. 21 BY MS. BALDWIN: 22 Q. Doctor, I've marked as 23 Exhibit-13 the surgeon's resource 24 monograph, and for ease of reference,</p>

<p style="text-align: right;">Page 262</p> <p>1 while you were flipping, I was flipping, 2 so I'll turn you to the page. It's the 3 one Bates stamped DX 10140.18, and it's 4 total repair with vaginal hysterectomy. 5 Do you see that page in 6 front of you? 7 A. Yes. I see that page. 8 Q. Okay. And if we look 9 at -- that's a total repair? I'm sorry. 10 A. Yeah. That's why I was 11 hesitating. 12 Q. I'm sorry. Doctor, if you 13 flip through, if you can find the 14 anterior page quicker than I can, I 15 welcome you. 16 A. That will be after. 17 MR. MORIARTY: You know you 18 did the same thing with the tech 19 guide. 20 MS. BALDWIN: Did I? Okay. 21 Let me go back. 22 MR. MORIARTY: It says the 23 same thing at page 18 which is the 24 anterior repair, so you don't</p>	<p style="text-align: right;">Page 264</p> <p>1 A. I agree with what you're 2 reading. 3 Q. Okay. And just while we're 4 on this surgeon's resource monograph, do 5 you know which date this was released to 6 physicians? 7 A. I don't have a date for that 8 that I can see right now. 9 Q. Okay. Do you have any 10 information whether or not Dr. Baker 11 actually saw this document? 12 MR. MORIARTY: Objection. 13 Asked and answered. 14 A. I don't know what was shown 15 to him or what he saw. 16 Q. Right. When I say shown, do 17 you have any information that Dr. Baker 18 received this information from Ethicon? 19 A. I do not have independent 20 information of that. 21 Q. Let's go back to 12, the 22 surgical technique guide, just to correct 23 the record, the one before that. 24 A. I beg your pardon?</p>
<p style="text-align: right;">Page 263</p> <p>1 really need to. It's at page 29. 2 MS. BALDWIN: Thank you, 3 Matt. 4 BY MS. BALDWIN: 5 Q. So Matt apparently has -- 6 Mr. Moriarty apparently has the surgeon's 7 resource monograph committed to memory, 8 but on page 29 is the anterior repair in 9 the absence of posterior defect and then 10 the anterior repair with hysterectomy? 11 A. Yes. 12 Q. Okay. And if we look at 13 that, at the bottom, the anterior repair 14 with hysterectomy, it's the same 15 language. 16 It is recommended that users 17 identify and retain the uterosacral 18 ligaments and then these structures can 19 later be interposed between the interior 20 implant and the vagina, correct? 21 A. That's what it says here. 22 Q. And it's not a must or a 23 should in either of those sentences, 24 correct?</p>	<p style="text-align: right;">Page 265</p> <p>1 Q. Let's go back to Document 2 12, the surgical technique guide? 3 A. Yes. 4 Q. And just because I did the 5 same thing there. I had you looking at 6 the total repair with vaginal 7 hysterectomy, and if you turn to page 18, 8 that's the anterior repair with 9 hysterectomy, correct? 10 A. Page 18. I'm sorry. 11 Q. I'm sorry. I'm looking at 12 these numbers right here, page 18. 13 A. Page 18, anterior repair 14 with hysterectomy. 15 Q. And it's the same language 16 there. It is recommended that users 17 identify and these structures can later 18 be interposed, correct? It's the same 19 language there? 20 A. That is correct. 21 Q. I just didn't want you to 22 think I was tricking you. I want to make 23 sure we're on the anterior repair with 24 hysterectomy?</p>

<p style="text-align: right;">Page 266</p> <p>1 A. Correct.</p> <p>2 Q. Okay. We can put those</p> <p>3 aside now.</p> <p>4 Doctor, I'm looking at</p> <p>5 the -- Dr. Baker's operative report. You</p> <p>6 presumably saw this, correct?</p> <p>7 A. Yes, I did.</p> <p>8 Q. Okay. And looking at it, he</p> <p>9 does say that he followed the Prolift</p> <p>10 protocol, correct?</p> <p>11 A. That's what he said.</p> <p>12 Q. Correct. So he doesn't put</p> <p>13 anywhere in here that he deviated from</p> <p>14 the Prolift protocol, correct?</p> <p>15 A. That's -- that -- he said he</p> <p>16 followed the Prolift protocol, but he</p> <p>17 dissected to the sacrospinous ligaments</p> <p>18 which is not a protocol for anterior</p> <p>19 Prolift.</p> <p>20 Q. Right. So he dissected a</p> <p>21 little further back, correct?</p> <p>22 A. He dissected -- it's not a</p> <p>23 question of further. It's a question of</p> <p>24 dissecting in the wrong plane.</p>	<p style="text-align: right;">Page 268</p> <p>1 the mesh in the wrong plane?</p> <p>2 A. Well, he dissected the wrong</p> <p>3 plane.</p> <p>4 Q. Well, you're basing your</p> <p>5 opinion on his dissection then or his</p> <p>6 description of his dissection?</p> <p>7 A. Yes, because he does not</p> <p>8 describe anything else.</p> <p>9 Q. Okay. So the fact that he</p> <p>10 describes following the Prolift protocol</p> <p>11 you're disregarding because you don't</p> <p>12 believe he did that. You believe he did</p> <p>13 something else?</p> <p>14 A. Well, if he had strictly</p> <p>15 followed the protocol for Prolift, he</p> <p>16 would not have been dissecting towards</p> <p>17 the sacrospinous ligament.</p> <p>18 Q. Okay. He says he followed</p> <p>19 the Prolift protocol so you -- what I'm</p> <p>20 asking you is: Do you disagree with</p> <p>21 that? You think he was incorrect for</p> <p>22 saying I followed the Prolift protocol?</p> <p>23 A. I have an incline that he</p> <p>24 did not because he dictated that he went</p>
<p style="text-align: right;">Page 267</p> <p>1 Q. Okay. So you believe he</p> <p>2 dissected in the wrong plane?</p> <p>3 A. Correct.</p> <p>4 Q. So you believe the implant</p> <p>5 was placed in the wrong plane?</p> <p>6 A. Well, he doesn't say that he</p> <p>7 dissected along the fascia -- fascia</p> <p>8 pelvis, the AFTP, arcus tendineus fascia</p> <p>9 pelvis, he said he dissected down towards</p> <p>10 the sacrospinous ligaments and that's the</p> <p>11 wrong place.</p> <p>12 If he started with his most</p> <p>13 superficial dissection close to the UV</p> <p>14 junction and then instead of dissecting</p> <p>15 along the arcus tendineus fascia pelvis,</p> <p>16 he went back to the sacrospinous, that</p> <p>17 would have further damaged the level one</p> <p>18 support and displaced how the mesh would</p> <p>19 have rested more posteriorly which is how</p> <p>20 Dr. Heit found it when he dictated his</p> <p>21 discharge summary.</p> <p>22 Q. Okay. Understanding your</p> <p>23 hypothetical, if he dissected, do you</p> <p>24 have any evidence that he actually put</p>	<p style="text-align: right;">Page 269</p> <p>1 to the sacrospinous ligament. If he had</p> <p>2 said he dissected to the ischial spine,</p> <p>3 if he dissected on the level of the arcus</p> <p>4 tendineus fascia pelvis, that would have</p> <p>5 been per protocol; but because he started</p> <p>6 to dissect in the wrong place, I can't be</p> <p>7 a hundred percent sure that he did follow</p> <p>8 the protocol.</p> <p>9 Q. Understanding you can't be a</p> <p>10 hundred percent sure, my question is: Do</p> <p>11 you have an opinion -- and let me</p> <p>12 rephrase it.</p> <p>13 Do you have an opinion to a</p> <p>14 reasonable degree of medical certainty</p> <p>15 that he placed this mesh in the wrong</p> <p>16 plane?</p> <p>17 MR. MORIARTY: Objection.</p> <p>18 Go ahead.</p> <p>19 A. Possibly, yes, because</p> <p>20 that's how Dr. Heit found it.</p> <p>21 Q. Okay. So you're saying</p> <p>22 possibly. You possibly have that</p> <p>23 opinion. You're not sure if you have</p> <p>24 that opinion; you possibly have that</p>

<p style="text-align: right;">Page 270</p> <p>1 opinion?</p> <p>2 A. I'm going to say that that</p> <p>3 opinion that he put it in the wrong plane</p> <p>4 is more probable than not.</p> <p>5 Q. More probable than not?</p> <p>6 A. Yes.</p> <p>7 Q. And you're basing that on</p> <p>8 you're disregarding -- where he dictated</p> <p>9 that he followed the Prolift protocol,</p> <p>10 you're disregarding that?</p> <p>11 A. I'm not disregarding it.</p> <p>12 I'm putting all of the medical findings</p> <p>13 of Dr. Heit and Dr. Baker put together.</p> <p>14 Q. So if he put this mesh in</p> <p>15 the wrong plane, how is it that it was</p> <p>16 able to heal nicely afterwards?</p> <p>17 A. The vagina healed nicely</p> <p>18 afterwards, but the mesh was never flat.</p> <p>19 It would have stayed flat.</p> <p>20 Q. Okay. So you believe the</p> <p>21 mesh was not put in flat from the time of</p> <p>22 the surgery?</p> <p>23 A. I think that is a</p> <p>24 possibility.</p>	<p style="text-align: right;">Page 272</p> <p>1 was placed in. It will not roll up or</p> <p>2 bunch up after years of being in place.</p> <p>3 Q. Are you familiar with the</p> <p>4 Velemir literature?</p> <p>5 A. If it is part of my reliance</p> <p>6 list, then I have read it.</p> <p>7 Q. Well, it's not and that's</p> <p>8 why I'm asking because there was</p> <p>9 literature published in 2010 that showed</p> <p>10 ultrasound images of the mesh bunching --</p> <p>11 and, unfortunately, I only have a black</p> <p>12 and white copy -- after it contracted</p> <p>13 inside of women. Are you aware of any</p> <p>14 literature about that topic?</p> <p>15 MR. MORIARTY: Objection.</p> <p>16 Go ahead.</p> <p>17 A. I would need to read that</p> <p>18 article and have time to reflect on it</p> <p>19 and what it means.</p> <p>20 Q. Right. Right. So my</p> <p>21 question is, are you aware right now?</p> <p>22 Understanding you haven't read this, are</p> <p>23 you aware that this literature existed?</p> <p>24 A. No. I don't know the title</p>
<p style="text-align: right;">Page 271</p> <p>1 Q. Again, a possibility or an</p> <p>2 opinion?</p> <p>3 A. It's my opinion that it was</p> <p>4 not put in flat and did not stay flat</p> <p>5 because it would have remained that way.</p> <p>6 Mesh doesn't just roll up on its own or</p> <p>7 bunch up on its own.</p> <p>8 Q. Is that opinion held to a</p> <p>9 reasonable degree of professional --</p> <p>10 medical certainty?</p> <p>11 A. Yes.</p> <p>12 Q. Okay. Are you aware of</p> <p>13 articles that have come out in the</p> <p>14 literature that have found that women</p> <p>15 have experienced bunching in their mesh,</p> <p>16 and it can be seen on ultrasound with the</p> <p>17 mesh contraction?</p> <p>18 MR. MORIARTY: Objection.</p> <p>19 Go ahead.</p> <p>20 A. Mesh will contract -- or,</p> <p>21 pardon me, the healing process will cause</p> <p>22 contracture of the mesh and the tissues,</p> <p>23 and it will contract in size in the same</p> <p>24 dimensions or in the same plane that it</p>	<p style="text-align: right;">Page 273</p> <p>1 of that article.</p> <p>2 Q. Okay.</p> <p>3 MR. MORIARTY: Objection.</p> <p>4 At least tell her what journal it</p> <p>5 was from so she'd know if it's a</p> <p>6 journal she reads.</p> <p>7 MS. BALDWIN: Sure.</p> <p>8 BY MS. BALDWIN:</p> <p>9 Q. It's the Ultrasound</p> <p>10 Obstetric Gynecology.</p> <p>11 A. The ultrasound?</p> <p>12 Q. I can show it to you here.</p> <p>13 A. Okay.</p> <p>14 Q. I'm sorry. I'm reading the</p> <p>15 title. It's very small.</p> <p>16 A. Yes. Well, it's not one of</p> <p>17 the journals that I read.</p> <p>18 Q. Well, we don't have to go</p> <p>19 through it now, Doctor. Can I have the</p> <p>20 copy back?</p> <p>21 Ethicon didn't give you this</p> <p>22 article, correct?</p> <p>23 A. That is correct.</p> <p>24 Q. Okay. And it didn't give</p>

<p style="text-align: right;">Page 274</p> <p>1 you any articles about the propensity of 2 mesh to bunch, correct? 3 MR. MORIARTY: Objection. 4 Go ahead. 5 A. No, it did not. 6 Q. If there's literature out 7 there about the mesh's propensity to 8 bunch as it contracts, would that 9 necessarily impact on your opinion that 10 Ms. Hammons' mesh was placed in the wrong 11 plane? 12 MR. MORIARTY: Objection. 13 A. One, I would have to read 14 that literature to make an opinion and to 15 see if that would influence it, but Dr. 16 Baker did not dissect along the arcus 17 tendineus fascia pelvis. He did not 18 dissect or say he was in the obturator 19 internus muscle. He did not say he went 20 to the ischial spine. He said he went to 21 the sacrospinous ligament. 22 Q. He didn't say that he didn't 23 do those things. What he said is he 24 followed the Prolift protocol, correct?</p>	<p style="text-align: right;">Page 276</p> <p>1 on ultrasounds, the mesh before and 2 after, before I can say that it would 3 influence my decision. 4 Q. Right. You'd need to look 5 at all the literature that was out there 6 on the subject, correct? 7 A. I would need to look at the 8 most important papers defining what 9 you're saying is a phenomenon that can 10 happen. 11 Q. You'd at least need 12 information about it to be provided to 13 you to give an educated opinion, correct? 14 A. I would agree with that 15 statement. 16 Q. So if there's literature out 17 there that you haven't seen, then you 18 can't say that your opinion is complete 19 because you haven't seen that literature, 20 correct? 21 MR. MORIARTY: Objection. 22 Go ahead. 23 A. I would say that there's a 24 possibility that it might or -- it's</p>
<p style="text-align: right;">Page 275</p> <p>1 MR. MORIARTY: Objection. 2 Asked and answered. 3 Q. Correct? 4 A. That's -- that's what he 5 stated, didn't describe it, and the one 6 thing he did describe is a dissection in 7 the wrong space. 8 Q. And from what he dictated 9 here, you're inferring that it was placed 10 in the wrong plane, correct? 11 A. I have no other reason to 12 believe that it was placed even in the 13 right plane. 14 Q. But if there's literature 15 out there that discusses the propensity 16 of the mesh to bunch, assuming I'm 17 correct, then that's a possibility of 18 what could have happened as well, 19 correct? 20 MR. MORIARTY: Objection. 21 Go ahead. 22 A. I would have to read that 23 literature and how these studies were 24 performed and look at how they measured</p>	<p style="text-align: right;">Page 277</p> <p>1 possible that it could influence my 2 opinion, but in all of the surgeries that 3 I have done, mesh did not end up curled 4 up or bunched up in one centimeter thick. 5 Q. Right. In the surgeries 6 that you've done? 7 A. Correct. 8 Q. But in the 70-plus thousand 9 dollars you were paid to serve as an 10 expert in this opinion, you didn't read 11 the articles about the propensity of the 12 mesh to bunch, correct? 13 MR. MORIARTY: Objection. 14 A. One, I wasn't paid \$70,000, 15 and I have read as much articles as I 16 could and what was provided to me. 17 Q. Well, you were paid \$37,000 18 on August 17th or submitted an invoice 19 for that amount, correct? 20 A. That was correct. 21 Q. And then you were paid 22 12,000 and change on October 5th, 2015, 23 correct? 24 A. That is correct.</p>

<p style="text-align: right;">Page 278</p> <p>1 Q. And then you were paid --</p> <p>2 A. No, I wasn't.</p> <p>3 Q. I'm sorry. You billed for</p> <p>4 \$28,000 and some change on November 2nd,</p> <p>5 correct?</p> <p>6 A. That is correct.</p> <p>7 Q. So you have bills to Ethicon</p> <p>8 totaling more than \$70,000, correct?</p> <p>9 A. That is correct.</p> <p>10 Q. So like we discussed at the</p> <p>11 very beginning, you expect to be paid</p> <p>12 more than \$70,000 for what you're saying</p> <p>13 in connection with this case, correct?</p> <p>14 MR. MORIARTY: Objection.</p> <p>15 Go ahead.</p> <p>16 A. I am hoping, yes.</p> <p>17 Q. Okay. And then for all that</p> <p>18 money that you're billing at 450 an hour,</p> <p>19 they didn't give you any literature about</p> <p>20 the propensity of mesh to bunch, correct?</p> <p>21 A. That is correct.</p> <p>22 Q. And they didn't show you any</p> <p>23 internal documents about whether Ethicon</p> <p>24 knew that there was a propensity of the</p>	<p style="text-align: right;">Page 280</p> <p>1 internal documents about it, would you</p> <p>2 have liked to have considered those when</p> <p>3 coming up with your expert opinion in</p> <p>4 this case?</p> <p>5 A. Yes, I would have.</p> <p>6 MR. MORIARTY: Objection.</p> <p>7 Q. If there's literature out</p> <p>8 there that specifically relates to this</p> <p>9 phenomenon of the ability of the mesh to</p> <p>10 bunch up, would you have liked to have</p> <p>11 seen that when making your opinions in</p> <p>12 this case?</p> <p>13 MR. MORIARTY: Objection.</p> <p>14 A. I would have liked to have</p> <p>15 seen those articles.</p> <p>16 Q. It's your opinion that the</p> <p>17 mesh was never laid flat, correct?</p> <p>18 A. It's my opinion that in its</p> <p>19 final resting position, it probably was</p> <p>20 not laid flat.</p> <p>21 Q. Well, probably or do you</p> <p>22 have an opinion to a reasonable degree of</p> <p>23 medical certainty?</p> <p>24 MR. MORIARTY: Well,</p>
<p style="text-align: right;">Page 279</p> <p>1 mesh to bunch or roll up?</p> <p>2 MR. MORIARTY: Objection.</p> <p>3 Go ahead.</p> <p>4 A. I now recall one phrase</p> <p>5 where the mesh could roll up where the</p> <p>6 arms of the mesh meet the actual body of</p> <p>7 the mesh and that I remember reading.</p> <p>8 Q. Are you talking about</p> <p>9 roping?</p> <p>10 A. Yes.</p> <p>11 Q. Okay.</p> <p>12 A. But that's not what we're</p> <p>13 talking about here.</p> <p>14 Q. Right, because they didn't</p> <p>15 give you any other documents, did they?</p> <p>16 A. No, they did not. And in</p> <p>17 the Green Journal, Gray Journal and</p> <p>18 Female Pelvic Medicine, I have not come</p> <p>19 across over the last few years on</p> <p>20 articles that describe this phenomenon</p> <p>21 that you say rolling and bunching as a</p> <p>22 frequent complication of mesh.</p> <p>23 Q. If it was a known</p> <p>24 complication of mesh and there are</p>	<p style="text-align: right;">Page 281</p> <p>1 objection.</p> <p>2 A. Reasonable degree of medical</p> <p>3 certainty.</p> <p>4 MR. MORIARTY: That's what</p> <p>5 she's telling you.</p> <p>6 Q. Well, probably isn't the</p> <p>7 same as reasonable degree of medical</p> <p>8 certainty, with all due respect to</p> <p>9 counsel. Do you understand that?</p> <p>10 MR. MORIARTY: Objection.</p> <p>11 It is, but...</p> <p>12 MS. BALDWIN: Well, let's</p> <p>13 not have the speaking objections.</p> <p>14 BY MS. BALDWIN:</p> <p>15 Q. Why don't you just tell me</p> <p>16 what you believe reasonable degree of</p> <p>17 professional medical certainty is?</p> <p>18 A. More than 50 percent likely.</p> <p>19 Q. Doctor, you're aware that on</p> <p>20 June 10th, 2009 Ms. Hammons had an exam</p> <p>21 by Dr. Baker, and he said she was doing</p> <p>22 well and healing great?</p> <p>23 A. Yes.</p> <p>24 Q. How is that possible if the</p>

<p style="text-align: right;">Page 282</p> <p>1 mesh was not laid flat?</p> <p>2 A. Because it's possible to</p> <p>3 look at a vaginal incision and see that</p> <p>4 there's no mesh erosion, that the vaginal</p> <p>5 mucosa is healing well, but he did not</p> <p>6 put a comment that he could feel the mesh</p> <p>7 flat and it was doing well. He just</p> <p>8 looked at, repair doing great. There's</p> <p>9 no other --</p> <p>10 Q. So, again, you're inferring</p> <p>11 something by what he didn't write here,</p> <p>12 correct?</p> <p>13 A. No. I'm just looking at</p> <p>14 what he did write.</p> <p>15 Q. Right. He put doing well,</p> <p>16 healing great, correct?</p> <p>17 A. Right.</p> <p>18 Q. And then you're inferring</p> <p>19 from that that because he didn't put that</p> <p>20 he felt the mesh laying flat that it</p> <p>21 wasn't flat?</p> <p>22 MR. MORIARTY: Objection.</p> <p>23 Go ahead.</p> <p>24 A. I'm saying here that your</p>	<p style="text-align: right;">Page 284</p> <p>1 A. Well, I don't know if he</p> <p>2 examined her, if he did a bimanual exam</p> <p>3 or not, if he even put a speculum in or</p> <p>4 not, but he could see vaginal sutures and</p> <p>5 he could see that she has an irritation</p> <p>6 on the outside for which he recommended</p> <p>7 Monistat or Vagisil.</p> <p>8 Q. Did you read his deposition?</p> <p>9 A. I did.</p> <p>10 Q. What did he say about it?</p> <p>11 A. I don't recall by heart, but</p> <p>12 I'd have to have the deposition in front</p> <p>13 of me to quote him.</p> <p>14 Q. Had you been retained in</p> <p>15 specific connection with this case when</p> <p>16 he was deposed?</p> <p>17 A. If you could remind me the</p> <p>18 date of the deposition?</p> <p>19 Q. May 13th, 2015?</p> <p>20 A. I was retained by Ethicon on</p> <p>21 May 26th but did not learn about the case</p> <p>22 until late June 28th or 29th and did not</p> <p>23 receive any depositions or patient chart</p> <p>24 records until July.</p>
<p style="text-align: right;">Page 283</p> <p>1 interpretation of healing great and --</p> <p>2 may I see the exact language, please?</p> <p>3 Q. Sure.</p> <p>4 A. And do we have -- do we have</p> <p>5 the exam in there?</p> <p>6 Q. Well, I'm just showing you</p> <p>7 the note where he says it.</p> <p>8 A. Okay. Doing well, healing</p> <p>9 great, still see some suture. So what he</p> <p>10 is inferring to is what he can see. He</p> <p>11 can see the vaginal mucosa. He can see</p> <p>12 that she has irritation all on the</p> <p>13 outside and advise Monistat or Vagisil.</p> <p>14 So all he can see is the sutures.</p> <p>15 Q. Right.</p> <p>16 A. Okay.</p> <p>17 Q. And you're inferring from</p> <p>18 that that there's a condition here that</p> <p>19 he didn't document, correct?</p> <p>20 MR. MORIARTY: Objection.</p> <p>21 A. He might not have even</p> <p>22 known.</p> <p>23 Q. So now you think he didn't</p> <p>24 even know?</p>	<p style="text-align: right;">Page 285</p> <p>1 Q. So you weren't asked what</p> <p>2 information you'd like to know from Dr.</p> <p>3 Baker about what was done at each of</p> <p>4 these exams?</p> <p>5 MR. MORIARTY: Objection.</p> <p>6 A. Can you repeat the question?</p> <p>7 Q. You weren't asked by the</p> <p>8 attorneys what information you would like</p> <p>9 to know about what occurred at each of</p> <p>10 these exams?</p> <p>11 MR. MORIARTY: Objection.</p> <p>12 She's told you she didn't have any</p> <p>13 case material 'til the end of</p> <p>14 June.</p> <p>15 MS. BALDWIN: Right. And</p> <p>16 that's my point.</p> <p>17 BY MS. BALDWIN:</p> <p>18 Q. So you couldn't possibly</p> <p>19 have told the attorneys, boy, this is</p> <p>20 what I'd like to know when you talk to</p> <p>21 Dr. Baker, correct?</p> <p>22 A. That would be a correct</p> <p>23 statement since I didn't even know this</p> <p>24 case existed until July.</p>

<p style="text-align: right;">Page 286</p> <p>1 Q. Right. So you couldn't say</p> <p>2 to them, boy, I'm inferring from this</p> <p>3 record that he didn't do a bimanual exam;</p> <p>4 could you clear that up in the</p> <p>5 deposition? You didn't get that</p> <p>6 opportunity, did you?</p> <p>7 A. That would be correct.</p> <p>8 Q. The attorneys didn't ask you</p> <p>9 what information are you going to infer</p> <p>10 from these records so that we can clear</p> <p>11 it up with the doctor to make sure your</p> <p>12 inferences are correct?</p> <p>13 A. That would be correct.</p> <p>14 Q. So if he doesn't talk one</p> <p>15 way or the other about what happened on</p> <p>16 this visit, June 10th, 2009, then you</p> <p>17 have no way of knowing. You're just</p> <p>18 inferring based on what's in the note?</p> <p>19 A. I am basing my conclusion on</p> <p>20 what he wrote in his note.</p> <p>21 Q. Right. And you're drawing</p> <p>22 inferences based on what you don't see</p> <p>23 there, correct?</p> <p>24 A. The only inference I -- in</p>	<p style="text-align: right;">Page 288</p> <p>1 what -- yes.</p> <p>2 Q. And anything else that might</p> <p>3 have happened at this visit would be an</p> <p>4 assumption on your part?</p> <p>5 A. And anybody else who looks</p> <p>6 at this record.</p> <p>7 Q. Right.</p> <p>8 (Whereupon, a document was</p> <p>9 marked for identification as</p> <p>10 Drolet Exhibit No. 14.)</p> <p>11 BY MS. BALDWIN:</p> <p>12 Q. And that would be the same</p> <p>13 thing about the positioning of the</p> <p>14 Prolift. You're making an assumption</p> <p>15 that it was not positioned at the level</p> <p>16 of the arcus tendineus fascia pelvis</p> <p>17 because it's not dictated in the report</p> <p>18 one way or the other what level it was</p> <p>19 implanted?</p> <p>20 A. Correct, but it's dictated</p> <p>21 that he dissected posteriorly in the</p> <p>22 wrong plane.</p> <p>23 Q. Right. So you're making an</p> <p>24 assumption?</p>
<p style="text-align: right;">Page 287</p> <p>1 conclusion I can come up with with this</p> <p>2 note is to say that he saw a suture still</p> <p>3 in the vagina and that she was irritated</p> <p>4 on the outside. She might have been</p> <p>5 doing great where there's no pain. I</p> <p>6 don't know. She might have been doing</p> <p>7 great in other particular areas. It's</p> <p>8 not in there.</p> <p>9 Q. Right. So you don't know?</p> <p>10 You don't know what else happened other</p> <p>11 than beyond what's in this note, correct?</p> <p>12 A. The only thing we can</p> <p>13 conclude with this note is that he says</p> <p>14 that the repair -- doing well, healing</p> <p>15 great, still see some suture. The</p> <p>16 irritation is all on the outside.</p> <p>17 Q. Just so we don't get</p> <p>18 confused later, I'm going to go ahead and</p> <p>19 mark this as Drolet-14, this page, so you</p> <p>20 have it in front of you.</p> <p>21 But the only thing then that</p> <p>22 we can conclude from this visit is</p> <p>23 exactly what he has written, correct?</p> <p>24 A. That -- I agree with</p>	<p style="text-align: right;">Page 289</p> <p>1 MR. MORIARTY: Objection.</p> <p>2 About what?</p> <p>3 Q. You're making an assumption</p> <p>4 about where the Prolift was placed?</p> <p>5 A. You can say you do something</p> <p>6 per protocol, but if the events leading</p> <p>7 up to that are erroneous, then there's a</p> <p>8 strong possibility that you didn't do it</p> <p>9 quite per protocol.</p> <p>10 Q. You're making that</p> <p>11 assumption?</p> <p>12 A. That's my conclusion.</p> <p>13 Q. Which is based on an</p> <p>14 assumption. It's not based on what he</p> <p>15 actually dictated in the note?</p> <p>16 MR. MORIARTY: Objection.</p> <p>17 This has been asked and answered</p> <p>18 ten times.</p> <p>19 MS. BALDWIN: No, it hasn't,</p> <p>20 Matt.</p> <p>21 MR. MORIARTY: Yes, it is.</p> <p>22 She has told you what she's basing</p> <p>23 it on.</p> <p>24 MS. BALDWIN: Was it an</p>

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<p>1 assumption on your part?</p> <p>2 MR. MORIARTY: He said</p> <p>3 two -- he said two --</p> <p>4 MS. BALDWIN: Thank you for</p> <p>5 the speaking objection. How about</p> <p>6 you make your objection and we</p> <p>7 keep going?</p> <p>8 MR. MORIARTY: Because it's</p> <p>9 asked and answered repeatedly.</p> <p>10 It's been established he said two</p> <p>11 contrary things. She draws an</p> <p>12 inference from the specific one.</p> <p>13 You want an inference from the</p> <p>14 general one.</p> <p>15 MS. BALDWIN: Okay. Matt,</p> <p>16 thank you for your speaking</p> <p>17 objection.</p> <p>18 MR. MORIARTY: We've covered</p> <p>19 it.</p> <p>20 MS. BALDWIN: Let me</p> <p>21 continue with my deposition.</p> <p>22 MR. MORIARTY: You're</p> <p>23 welcome. I'll do more of them if</p> <p>24 you like them.</p>	<p>1 someone who has high-volume pelvic floor</p> <p>2 repair experience?</p> <p>3 A. I don't know what he</p> <p>4 considers or not considers himself.</p> <p>5 Q. Did Ethicon have any</p> <p>6 advanced trainings more than just the</p> <p>7 one-day preceptorships for doctors that</p> <p>8 weren't high-volume pelvic floor repair</p> <p>9 surgeons?</p> <p>10 A. I don't know.</p> <p>11 Q. If Ethicon knew that doctors</p> <p>12 who were not high-volume pelvic floor</p> <p>13 repair surgeons were likely to have</p> <p>14 higher complication rates, shouldn't they</p> <p>15 have had more than just one-day</p> <p>16 preceptorships for those surgeons?</p> <p>17 MR. MORIARTY: Objection.</p> <p>18 A. I don't know if the training</p> <p>19 availability was there or not for that</p> <p>20 opportunity.</p> <p>21 Q. So you can't speak to the</p> <p>22 adequacy of the training?</p> <p>23 MR. MORIARTY: Objection.</p> <p>24 A. Yes, I can.</p>
Page 291	Page 293
<p>1 MS. BALDWIN: On your clock.</p> <p>2 BY MS. BALDWIN:</p> <p>3 Q. Doctor, nowhere in the</p> <p>4 operative note did Dr. Baker dictate that</p> <p>5 he positioned the Prolift mesh at the</p> <p>6 wrong level?</p> <p>7 A. Literally, that is correct.</p> <p>8 Q. Thank you.</p> <p>9 A. But I don't know of any</p> <p>10 surgeon who would go into an OR report</p> <p>11 and said, I put X, Y, Z in the wrong</p> <p>12 place.</p> <p>13 Q. Let's talk about that. He's</p> <p>14 not a surgeon, really, is he? He's a</p> <p>15 generalist?</p> <p>16 MR. MORIARTY: Objection.</p> <p>17 A. He is a Board certified</p> <p>18 obstetrician-gynecologist.</p> <p>19 Q. Who doesn't consider himself</p> <p>20 a highly skilled pelvic floor repair</p> <p>21 surgeon, correct?</p> <p>22 A. I do not know what he</p> <p>23 considers himself.</p> <p>24 Q. Who doesn't consider himself</p>	<p>1 Q. Well, you just said you</p> <p>2 don't know if it was there?</p> <p>3 A. I can speak to the adequacy</p> <p>4 of training that I have experienced. I</p> <p>5 don't know if Dr. Baker asked for more</p> <p>6 training, wanted more training, felt that</p> <p>7 he needed more training or not.</p> <p>8 He is a Board certified</p> <p>9 obstetrician-gynecologist who had done</p> <p>10 some Prolifts before. He had gone</p> <p>11 through training. Ethicon provided</p> <p>12 training. The hospital granted him</p> <p>13 privileges to do these procedures.</p> <p>14 Q. Okay. You said he had done</p> <p>15 Prolifts before. Before what?</p> <p>16 A. Before Mrs. Hammons' case.</p> <p>17 Q. Do you know how many?</p> <p>18 A. I think he refers to about</p> <p>19 30.</p> <p>20 Q. Total?</p> <p>21 A. I'm not sure. We'd have to</p> <p>22 go back to his deposition to find out</p> <p>23 exactly what he said.</p> <p>24 Q. Right. So if he said he</p>

<p style="text-align: right;">Page 294</p> <p>1 thinks he did about 30 of those total, 2 that doesn't mean he did 30 before he saw 3 Mrs. Hammons, right? 4 A. That would be correct. I'm 5 not sure exactly how many total he had 6 done or how many he had done before Mrs. 7 Hammons, but Mrs. Hammons' surgery was in 8 2009, and if I recall, his training, I 9 think, was in 2006. I'd have to go back 10 to the deposition to look for that. 11 Q. Right. So let's talk about 12 the training. We got off track here. We 13 were talking about the adequacy of the 14 training, and you're speaking about the 15 adequacy of the training from your 16 standpoint, correct? 17 A. Yes. 18 Q. You believe your training 19 was adequate? 20 A. I think it was. 21 Q. Okay. You can't speak to 22 the adequacy of the training received by 23 general OB-GYNs who are not high-volume 24 pelvic floor repair surgeons because you</p>	<p style="text-align: right;">Page 296</p> <p>1 Q. Right. And you would hope 2 that if they were inviting general 3 OB-GYNs who are not high-volume pelvic 4 floor repair surgeons that they would 5 give them additional training that they 6 needed on the Prolift? 7 A. If they needed additional 8 training, yes. 9 Q. Because -- well, if Ethicon 10 believed that the Prolift was appropriate 11 only for high-volume pelvic floor repair 12 surgeons, then it had a responsibility to 13 provide additional training to folks who 14 didn't fit that category? 15 MR. MORIARTY: Objection. 16 A. I would hope that the 17 training would have been available if a 18 particular doctor felt that he or she 19 would want additional training. 20 Q. You would hope also that 21 that training would be given by the 22 company that knew that doctors who didn't 23 fit its criteria might have higher 24 complication rates, right?</p>
<p style="text-align: right;">Page 295</p> <p>1 don't know what they were offered, 2 correct? 3 MR. MORIARTY: Objection. 4 A. I do not know the exact 5 training that Dr. Baker received. 6 Q. So you can't speak to the 7 adequacy of that training because you 8 just don't know? 9 MR. MORIARTY: Objection. 10 A. I was not there at that 11 time, but I received good training. 12 Q. You received good training? 13 A. Correct. 14 Q. Do you know if Dr. Baker 15 received the exact same training you did? 16 A. Well, he couldn't have 17 received the exact same training because 18 it wasn't Vince Lucente, but it was still 19 a reputable surgeon. And it wasn't in 20 Allentown, so it couldn't have been the 21 exact same, but I would hope that when 22 Ethicon provided training, they would 23 have a standard way or a standardized way 24 of providing these trainings.</p>	<p style="text-align: right;">Page 297</p> <p>1 MR. MORIARTY: Objection. 2 Asked and answered. 3 A. I would hope that it would 4 be provided by the company, yes. 5 Q. Doctor, one of the opinions 6 I think you're offering in your report is 7 that you don't believe Ms. Hammons' 8 dyspareunia was caused by her anterior 9 Prolift, correct? 10 A. To a reasonable medical 11 degree of certainty, yes. 12 Q. You don't believe that her 13 anterior Prolift is causing her current 14 complaints of dyspareunia? 15 A. That would be correct. 16 Q. Okay. And I think you're 17 basing that in large part on your medical 18 examination of Ms. Hammons, correct? 19 MR. MORIARTY: Objection. 20 A. I did this report before I 21 had the chance to examine her. 22 Q. Right. And in this report 23 you noted that the only places that pain 24 had been documented was at the back cuff</p>

<p style="text-align: right;">Page 298</p> <p>1 in the posterior portion of the vagina, 2 correct? 3 A. Yes. That was the exam from 4 Dr. Baker when he saw her at 12 weeks. 5 Q. Okay. And based on that, in 6 part, you're saying that the dyspareunia 7 was not caused by the anterior Prolift, 8 correct? 9 A. To a reasonable degree of 10 medical certainty, yes. 11 Q. Okay. After you authored 12 this report you had the chance to examine 13 Ms. Hammons, correct? 14 A. Yes. 15 Q. And she was in your office? 16 A. Yes, she was. 17 Q. And she submitted to a 18 physical exam. You were able to examine 19 her vagina? 20 A. Yes. That is correct. 21 Q. Okay. And in that -- 22 MS. BALDWIN: You know what? 23 We might as well take the break 24 now then. We're going to go off</p>	<p style="text-align: right;">Page 300</p> <p>1 authored in your report? 2 A. No. Not that I can think of 3 at this point. 4 Q. Okay. We were talking about 5 the defense medical exam before we went 6 off the tape. I'm right that you 7 authored your -- 8 A. Can I amend that previous 9 report? 10 Q. Sure. 11 A. The fact that she had pain 12 with her pessary may indicate that she 13 could have been at higher risk for 14 dyspareunia or pelvic pain or levator ani 15 myalgia because the pessary has to rest 16 on the levator ani, so that may be a sign 17 or a symptom. 18 Q. Are you suggesting that the 19 insertion of the pessary somehow injured 20 her levator ani? 21 A. No, but when it comes to 22 rest on it, if you have a sensitivity, it 23 may become very uncomfortable as the day 24 wears on and the pessary pushes against</p>
<p style="text-align: right;">Page 299</p> <p>1 the video. He has to change 2 tapes. 3 THE VIDEOGRAPHER: The time 4 is now 3:27, and this concludes 5 DVD number 3. 6 (A short break was taken.) 7 THE VIDEOGRAPHER: The time 8 now is 3:37, and this is the 9 beginning of DVD number 4. 10 BY MS. BALDWIN: 11 Q. Doctor, I just want to 12 backtrack a little bit. There was a 13 record produced that Ms. Hammons had a 14 pessary placed in 2007 and then had it 15 removed that same day in the emergency 16 room because it was painful. Did you get 17 that record? 18 A. Yes. I got that way late 19 after -- after this report, I think, yes. 20 Q. The fact that she had a 21 pessary placed in 2007 and had to have it 22 removed and had acute pain from that that 23 was not longstanding, does that in any 24 way change any of the opinions you</p>	<p style="text-align: right;">Page 301</p> <p>1 it, so I'm not sure. 2 Q. Okay. If it's her 3 recollection -- this is a hypothetical. 4 If it's her recollection 5 that became uncomfortable when it became 6 partially dislodged, that's something 7 different than it being painful when it's 8 resting on the levator ani, correct? 9 A. Well, I don't -- I don't 10 know what partially dislodged would mean 11 because the pessary, when it's about to 12 come out, you Valsalva and it falls out. 13 So dislodged, I don't know 14 what type of pessary, what size it was 15 put in and how was it dislodged when she 16 went to the emergency room. So I can't 17 make a firm conclusion on that to a 18 reasonable degree of medical certainty. 19 Q. So because of the 20 information you don't know about this 21 pessary, you can't draw any conclusions 22 from it? 23 A. I can draw some hypotheses 24 but not a firm conclusion to a hundred</p>

<p style="text-align: right;">Page 302</p> <p>1 percent of medical certainty.</p> <p>2 Q. To a reasonable degree of</p> <p>3 medical certainty, you cannot draw</p> <p>4 conclusions?</p> <p>5 MR. MORIARTY: Well,</p> <p>6 objection. Go ahead.</p> <p>7 A. I would agree with that</p> <p>8 statement.</p> <p>9 Q. Okay. We were talking about</p> <p>10 the defense medical exam, and sometimes</p> <p>11 those are hyphenated DME. If I use DME,</p> <p>12 will you understand that term, that</p> <p>13 acronym?</p> <p>14 A. Now I will.</p> <p>15 Q. Okay. All right. You</p> <p>16 authored your report in this case. I had</p> <p>17 it in front of me. Just give me a</p> <p>18 moment.</p> <p>19 You authored your full</p> <p>20 report in this case -- of course, this</p> <p>21 doesn't have a signature page on it --</p> <p>22 before you did the DME, correct?</p> <p>23 A. That was correct.</p> <p>24 Q. Okay. And if I look at this</p>	<p style="text-align: right;">Page 304</p> <p>1 counsel?</p> <p>2 Q. Between the attorneys, so</p> <p>3 between the attorneys for the defendants</p> <p>4 who retained you and between the</p> <p>5 attorneys for Ms. Hammons, my office.</p> <p>6 Were you told about the discussions</p> <p>7 between the attorneys about the scope of</p> <p>8 the examination?</p> <p>9 MR. MORIARTY: Objection.</p> <p>10 Go ahead.</p> <p>11 A. No.</p> <p>12 Q. Okay. Are you familiar with</p> <p>13 the Pennsylvania Rules of Civil Procedure</p> <p>14 that cover defense medical examinations?</p> <p>15 A. No, I am not.</p> <p>16 Q. Okay.</p> <p>17 MS. BALDWIN: Doctor, I'll</p> <p>18 put in front of you, we can mark</p> <p>19 it while she's pointing something</p> <p>20 out to me.</p> <p>21 (Whereupon, a document was</p> <p>22 marked for identification as</p> <p>23 Drolet Exhibit No. 15.)</p> <p>24 BY MS. BALDWIN:</p>
<p style="text-align: right;">Page 303</p> <p>1 version, I know it's in here. I took it</p> <p>2 out of here. All right.</p> <p>3 And then after you authored</p> <p>4 this report and authored the opinions in</p> <p>5 this report, you had the opportunity to</p> <p>6 do your examination of Ms. Hammons,</p> <p>7 correct?</p> <p>8 A. That is correct.</p> <p>9 Q. Before you did your</p> <p>10 examination of Ms. Hammons, you had never</p> <p>11 done a medical examination in conjunction</p> <p>12 with a lawsuit before, correct?</p> <p>13 A. Not in conjunction with a</p> <p>14 lawsuit.</p> <p>15 Q. Were you given an</p> <p>16 understanding of what the scope of your</p> <p>17 exam was to be before it happened?</p> <p>18 A. Not really.</p> <p>19 Q. Okay. Were you given an</p> <p>20 explanation of what the discussion was</p> <p>21 between counsel about the scope of the</p> <p>22 exam?</p> <p>23 MR. MORIARTY: Objection.</p> <p>24 A. Between counsel? Whose</p>	<p style="text-align: right;">Page 305</p> <p>1 Q. Fifteen, I believe, are the</p> <p>2 notes of the exam. Is that correct?</p> <p>3 A. That would be correct.</p> <p>4 MS. BALDWIN: Matt, I just</p> <p>5 tossed one in your direction.</p> <p>6 Q. Okay. And if we go to the</p> <p>7 second page of the notes on your exam,</p> <p>8 page 2?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. And if we go down</p> <p>11 about halfway, it talks about your</p> <p>12 bimanual midline exam, and you said there</p> <p>13 she is nontender up to approximately 6 to</p> <p>14 8 centimeters beyond the hymen.</p> <p>15 Did I read that correctly?</p> <p>16 A. You read that correctly</p> <p>17 above the hymen. Beyond for me would be</p> <p>18 above the hymen.</p> <p>19 Q. Right. So if we -- I can --</p> <p>20 let's just make it even clearer.</p> <p>21 (Whereupon, a document was</p> <p>22 marked for identification as</p> <p>23 Drolet Exhibit No. 16.)</p> <p>24 BY MS. BALDWIN:</p>

<p style="text-align: right;">Page 306</p> <p>1 Q. Sixteen is a diagram of 2 normal pelvic anatomy. Why don't you 3 circle for me the area that you mean? 4 A. Well, she doesn't have a 5 uterus. 6 Q. Oh, goodness. 7 MR. MORIARTY: That was 8 what's known as a trick question. 9 MS. BALDWIN: It is. I 10 don't know that I have one without 11 a uterus. Do I have one without a 12 uterus? 13 BY MS. BALDWIN: 14 Q. Why don't you cross out the 15 uterus with a pen and then circle the 16 area you're talking about because I don't 17 know that I have one without a uterus. 18 You can use that red marker there. 19 A. (Witness indicating.) 20 MR. MORIARTY: Did you mark 21 that drawing as an exhibit? 22 MS. BALDWIN: I did. 23 Sixteen. 24 THE WITNESS: So up to 6 to</p>	<p style="text-align: right;">Page 308</p> <p>1 Prolift implanted? 2 A. No, because I wasn't allowed 3 to have that question answered. 4 Q. Okay. Doctor, you're aware 5 that Dr. Dagostino from my office was 6 also physically present at the exam? 7 A. Yes. 8 Q. And she was listening to the 9 questions that were asked and the answers 10 that were given? 11 MR. MORIARTY: Objection. 12 A. If she was listening, I'm 13 sure. 14 Q. Did you receive a copy of 15 the letter that Dr. Dagostino sent to Mr. 16 Moriarty about your exam after it 17 happened? 18 A. Yes, I did. 19 Q. Okay. And did you take 20 issue with that letter? 21 A. What do you mean by take 22 issue? 23 Q. Well, she believes that Ms. 24 Hammons was visibly uncomfortable during</p>
<p style="text-align: right;">Page 307</p> <p>1 8 centimeters, whatever six or 2 eight is on this drawing here. So 3 6 to 8 centimeters, there's no 4 cervix, so it would have to be 5 over here. So the area in red. 6 BY MS. BALDWIN: 7 Q. Okay. Is where she was 8 nontender? 9 A. That is correct. 10 Q. Was she tender at all beyond 11 8 centimeters? 12 A. If I pushed hard enough, 13 yes. 14 Q. Okay. Did she visibly 15 display discomfort during the entire exam? 16 A. Not during the entire exam. 17 Q. Did she visibly display 18 discomfort when you did this vaginal exam 19 of the area that you colored in red? 20 A. Well, she had no discomfort 21 in the area in red. 22 Q. Did she explain to you that 23 there was some discomfort but it was not 24 as bad as when she had first gotten the</p>	<p style="text-align: right;">Page 309</p> <p>1 the exam and that Ms. Hammons explained 2 to you that she had pain up front. Do 3 you disagree that that happened? 4 A. Yes, I do. 5 Q. Ms. Hammons -- are you 6 saying you don't recall Ms. Hammons 7 explaining to you that she had pain up 8 front? 9 A. She had pain down there. 10 She pointed to her lower pelvis, not her 11 privates, but when she said she had pain 12 down there, she pointed to her lower 13 abdomen. And it happened maybe, if I 14 recall my notes, infrequently, lasts for 15 a few minutes. I cannot say exactly and 16 knows it's less than 30 minutes because I 17 asked her, is it once in a while, once a 18 week, and she didn't know. It goes away 19 on its own, and she can still continue to 20 work. 21 Q. I'm not asking about her 22 description of the pain that she had 23 currently. 24 A. Okay.</p>

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<p>1 Q. I'm asking about the pain 2 that she described to you when you were 3 doing your bimanual exam? 4 A. Well, anteriorly? 5 Q. Yes. 6 A. There was no pain. 7 Q. Whatsoever? 8 A. I examined her, and the way 9 the exam room is configured, Dr. 10 Dagostino was on the back wall in a 11 chair. The patient, Mrs. Hammons, was at 12 times sitting with her back to Dr. 13 Dagostino. The only time where Dr. 14 Dagostino could see Mrs. Hammons' face 15 was when Mrs. Hammons turned around and 16 if she was waiting or wanted to get a 17 signal to either answer or not answer a 18 question. 19 Q. Are you suggesting that Mrs. 20 Hammons was getting signals from Dr. 21 Dagostino during the exam? 22 MR. MORIARTY: Objection. 23 A. I'm not saying she was 24 getting signals from her, no, but there</p>	<p>1 Mrs. Hammons, is there a reason why you 2 haven't tried to have intercourse since 3 Dr. Heit's surgery in 2012? I was 4 interrupted by Dr. Dagostino saying, what 5 do you mean in 2012? And I repeated -- I 6 thought I had made a mistake, so I said 7 okay. Let's forget the dates. The major 8 surgery by Dr. Heit and the cystoscopies. 9 I repeated the question, and 10 Mrs. Hammons smiled at me, turned around 11 to Dr. Dagostino, and Dr. Dagostino said 12 something to the effect, don't answer 13 that question. 14 Q. Did you read Ms. Hammons' 15 deposition in advance of your exam -- 16 MR. MORIARTY: Objection. 17 Asked and answered three times. 18 MS. BALDWIN: I didn't 19 finish my question. Can I finish? 20 Thanks. 21 MR. MORIARTY: I thought you 22 were done. 23 BY MS. BALDWIN: 24 Q. Did you read Ms. Hammons'</p>
Page 311	Page 313
<p>1 came a point where I asked a question 2 after my exam which found no anterior 3 pelvic pain, and the way the patient is 4 draped on the table, if I'm the patient, 5 the patient is lying not quite on her 6 back but with an angle. We have stirrups 7 that hold the calf, not the heel. 8 Dr. Dagostino was sitting 9 behind, about four or five feet behind 10 her head. There is a paper drape lying 11 on her, covering her legs up to her 12 knees, and I'm down below. 13 So when I examined her at 14 that part of the exam, I said to -- or I 15 asked Mrs. Hammons, does it hurt here? 16 She said no. That was the periurethral 17 anterior wall area. Does it hurt here? 18 And she said no. And that was at the 19 level of the bladder neck trigone area. 20 Does it hurt here? No. And I went in as 21 deep as my fingers will allow, she said 22 no. Then I stood up and did it again, 23 and in those areas she said no. 24 I distinctly remember asking</p>	<p>1 deposition before the medical exam where 2 she testified about the reasons why she 3 stopped having sex? 4 MR. MORIARTY: Objection. 5 A. I did. 6 Q. Did you have any 7 understanding that there was discussion 8 between counsel that pursuant to Rule 9 4010 of the Pennsylvania Rules of Civil 10 Procedure, she would only be permitted to 11 answer questions about her current 12 medical condition and not questions that 13 were already covered in her deposition? 14 MR. MORIARTY: Objection. 15 A. Well, since I did not know 16 what the Pennsylvania rule was, I didn't 17 know I wasn't supposed to ask. 18 Q. Do you deny the fact that 19 Ms. Hammons said there was pain up front 20 when you were doing the bimanual exam? 21 A. There were some areas of 22 pain but not in the specific areas that I 23 pointed to. 24 Q. Do you deny that Ms. Hammons</p>

<p style="text-align: right;">Page 314</p> <p>1 said there was pain up front when you 2 were doing the bimanual exam? 3 MR. MORIARTY: Objection. 4 Go ahead. 5 A. I don't remember her saying 6 pain up front while I was doing a 7 bimanual exam because I asked yes and no 8 questions. Does it hurt here, here, 9 here, and I did not mention the 10 anatomical site that I was examining when 11 I was asking the question. 12 Q. Did Ms. Hammons or don't you 13 recall? 14 A. Did Ms. Hammons what? 15 Q. Mention pain up front or 16 don't you recall? 17 A. I do not remember her saying 18 pain up front while I was doing the exam. 19 Q. If you pushed hard enough in 20 a particular area, you would admit that 21 Ms. Hammons had pain? 22 A. In other areas of the 23 pelvis, yes and not -- you know, when you 24 say hard enough, you know, when we do a</p>	<p style="text-align: right;">Page 316</p> <p>1 intercourse? 2 A. Well, right now, she said 3 she hadn't had intercourse after Dr. 4 Heit's surgery. That's what she told me. 5 Q. You understand it was her 6 testimony that she stopped having sex 7 because it was excruciatingly painful, 8 correct? 9 A. That is correct. That's 10 what Dr. Lackey wrote in his report. He 11 said -- or in his notes, they've pretty 12 much given up on it, but if you complain 13 of dyspareunia and you do surgery to try 14 and fix it -- let me rephrase that. 15 After a particular surgery 16 one would think you would want to retry 17 just in case it didn't hurt, and by 18 removing the Prolift, the area of 19 tenderness that Dr. Heit palpated was no 20 longer tender. It was the posterior 21 direction of the vagina and the lateral 22 aspects in the levator ani muscles that 23 were tender, not where the Prolift was. 24 Q. Do you intend to offer an</p>
<p style="text-align: right;">Page 315</p> <p>1 pelvic exam, we don't want to be -- we 2 want to be respectful and we want to be, 3 you know -- as I would normally do. 4 Let's just say it that way. 5 I conducted this exam as I 6 would do any woman who would come to my 7 office complaining of pain with 8 intercourse. I would want to know the 9 source of the pain and where it hurt in 10 order to better assist how to help treat, 11 and that's how I conducted this portion 12 of the pelvic exam. 13 Q. So you're not in any way 14 suggesting that the bimanual exam you did 15 simulated the amount of force that might 16 be placed upon the vagina during sex? 17 A. It can be more or less. It 18 just depends. I... 19 Q. But you were able to get her 20 to say there was pain when you pressed 21 hard enough in certain areas? 22 A. That would be correct. 23 Q. So you do not deny the fact 24 that she may have pain during</p>	<p style="text-align: right;">Page 317</p> <p>1 opinion that Ms. Hammons does not suffer 2 from dyspareunia? 3 MR. MORIARTY: Objection. 4 Go ahead. 5 A. At this point in time. If 6 she has had intercourse that caused pain, 7 I absolutely believe her. 8 Q. You have no reason not to 9 believe her? 10 A. But since she told me she 11 has not tried to have sex since 2012, I 12 don't know if she would still have pain 13 with intercourse. 14 Q. Do you have any reason not 15 to believe the testimony she gave about 16 the pain she experienced the last time 17 she tried intercourse? 18 A. In my office I absolutely 19 believe that when she told me she had 20 pain with intercourse, I do believe her. 21 But since Dr. Heit did his surgery, I 22 don't know if it would still be painful 23 or not. 24 Q. Because she's too scared to</p>

<p style="text-align: right;">Page 318</p> <p>1 try because it was so excruciatingly 2 painful the last time she tried, correct? 3 MR. MORIARTY: Objection. 4 A. Well, she couldn't tell me 5 why. 6 Q. Right. And we already went 7 over that. You're not familiar with the 8 rules of Pennsylvania civil procedure or 9 what the scope of the exam was going into 10 it? 11 A. I'm not familiar with the 12 Pennsylvania ruling, right. 13 Q. Right. Right. Okay. So 14 you had the deposition testimony and you 15 have no reason to disbelieve what she 16 testified to under oath? 17 A. Well, at one point she 18 testified under oath she didn't know she 19 was having mesh put in, but in the 20 nurse's pre-op notes for Dr. Baker's 21 surgery, it says typed in, per patient, 22 patient -- patient understands her 23 surgery, and the two nurses wrote in 24 independently that she was having her</p>	<p style="text-align: right;">Page 320</p> <p>1 deposition, but we're talking 2 about dyspareunia which is pain 3 that only occurs during 4 intercourse. 5 So if she hasn't tried it 6 after Dr. Heit did his surgeries, 7 we can't find out where she hurts. 8 We don't know where she hurts, if 9 she hurts during intercourse. 10 BY MS. BALDWIN: 11 Q. Doctor, do you know to what 12 extent the anterior Prolift caused Ms. 13 Hammons' vagina to shrink? 14 MR. MORIARTY: Objection. 15 Form. Go ahead. 16 A. Well, one, we don't have a 17 measurement of Mrs. Hammons' vagina 18 beforehand, and then a vaginal 19 hysterectomy has been shown to decrease 20 vaginal length by about one and a half, 21 1.8 centimeters. 22 Q. What's the average vaginal 23 length? 24 A. Average, around 10</p>
<p style="text-align: right;">Page 319</p> <p>1 bladder tucked with mesh so... 2 Q. I'm just trying to get a 3 clear answer from you, and I need to know 4 the extent of your opinions. 5 So do you intend to get up 6 at trial and say that Ms. Hammons is a 7 liar and that she was not speaking 8 truthfully about her dyspareunia in her 9 deposition? 10 MR. MORIARTY: Objection. 11 Go ahead. 12 A. No. I think you're 13 mischaracterizing. 14 Q. Okay. Do you intend to 15 testify that Ms. Hammons was not truthful 16 in her deposition? 17 MR. MORIARTY: Objection. 18 She just answered your question. 19 MS. BALDWIN: She said I 20 mischaracterized it, so I 21 rephrased it. Go ahead. 22 THE WITNESS: I would hope 23 that Mrs. Hammons was as truthful 24 as she could during her</p>	<p style="text-align: right;">Page 321</p> <p>1 centimeters, plus or minus 1.2 2 centimeters, something like that. 3 Q. When you did your vaginal 4 exam, you measured her vagina to be 5 approximately 6 centimeters? 6 A. Six to eight, actually. 7 That's mea culpa here. It should have 8 been eight instead of six. 9 Q. I'm sorry. Which document 10 are you looking at? 11 A. I am looking at the office 12 exam, the contemporaneous note. First, 13 at the top the age is wrong because we 14 were not allowed to have her birthday, 15 and I had no documents as to her 16 birthday. So eight months, one week 17 was -- they put today's date as her 18 birthday. 19 Q. Can I just interrupt you 20 right there? You had her deposition, 21 correct? 22 A. Yes, but I did not have the 23 documents in my office. 24 Q. Okay. Okay. But you had it</p>

<p style="text-align: right;">Page 322</p> <p>1 in your possession, correct?</p> <p>2 A. I had documents in my</p> <p>3 possession but not that moment, that day,</p> <p>4 that second that she came to the office.</p> <p>5 And for me to be able to put anything on</p> <p>6 EMR, we have to have a birth date. So</p> <p>7 since she didn't want to give hers and I</p> <p>8 couldn't remember exactly, my front end</p> <p>9 office staff put the date of the...</p> <p>10 Q. Right.</p> <p>11 A. Okay.</p> <p>12 Q. So for convenience, they put</p> <p>13 a random date of 1/1/15 in there as a</p> <p>14 placeholder because you had access to</p> <p>15 that information. You had her</p> <p>16 deposition, correct?</p> <p>17 A. But I did not have it in the</p> <p>18 office that Monday morning or Tuesday</p> <p>19 morning when she came to the office.</p> <p>20 Q. Correct. But you had it</p> <p>21 somewhere that you could have, if you</p> <p>22 wanted to, gone and got it?</p> <p>23 A. Not easily. I would have</p> <p>24 had to leave the office, drive home, go</p>	<p style="text-align: right;">Page 324</p> <p>1 vagina was at minus six in a posterior</p> <p>2 direction toward the sacrospinous</p> <p>3 ligaments.</p> <p>4 And that is probably due to</p> <p>5 the sacrospinous fixation using mesh that</p> <p>6 Dr. Heit put in, plus the two enterocele</p> <p>7 repairs, plus the two previous rectocele</p> <p>8 repairs where you have vagina that is</p> <p>9 very adherent and scarred posteriorly,</p> <p>10 but in a direct angle where I put in the</p> <p>11 speculum, that measured eight.</p> <p>12 Q. Correct. I'm asking you,</p> <p>13 that eight measurement, did you write</p> <p>14 that down somewhere on some other</p> <p>15 document or are you getting that from</p> <p>16 your memory?</p> <p>17 MR. MORIARTY: Objection.</p> <p>18 It's right in the report.</p> <p>19 MS. BALDWIN: Well, I'm</p> <p>20 looking at the number, and it says</p> <p>21 6 centimeters through.</p> <p>22 THE WITNESS: Yeah, but --</p> <p>23 MS. BALDWIN: So please stop</p> <p>24 coaching the witness. It says</p>
<p style="text-align: right;">Page 323</p> <p>1 and look and come back.</p> <p>2 Q. The point is, they put a</p> <p>3 placeholder date in there?</p> <p>4 A. They did.</p> <p>5 Q. Okay. Going down. Where is</p> <p>6 the 6 centimeters?</p> <p>7 A. If we go to page 2 and we go</p> <p>8 to the area where you had pointed to me</p> <p>9 bimanual exam.</p> <p>10 Q. Yes.</p> <p>11 A. One, two, three, four lines</p> <p>12 down, you have minus two, comma, AP,</p> <p>13 minus two, GH, general hiatus, 3.5,</p> <p>14 perineal body, 1.5. TVL, that should</p> <p>15 have been 8.</p> <p>16 Q. We're at TVL 6 centimeters,</p> <p>17 and you say that should be 8 centimeters?</p> <p>18 A. Correct.</p> <p>19 Q. What are you basing that on?</p> <p>20 Your memory?</p> <p>21 MR. MORIARTY: Objection.</p> <p>22 A. No. I had a graduated</p> <p>23 measured speculum that measured it point</p> <p>24 C where the scarring in the posterior</p>	<p style="text-align: right;">Page 325</p> <p>1 six, and now you're saying eight.</p> <p>2 THE WITNESS: It says</p> <p>3 nontender up to 6 to 8</p> <p>4 centimeters, so easily put in</p> <p>5 something at 8 centimeters, that's</p> <p>6 her vaginal length.</p> <p>7 When I do a bimanual exam</p> <p>8 with my fingers, I do not have a</p> <p>9 ruler marked on my glove exactly.</p> <p>10 That's why I put six to eight.</p> <p>11 BY MS. BALDWIN:</p> <p>12 Q. Okay. So bimanual midline,</p> <p>13 you're using your fingers to approximate</p> <p>14 which is where you put approximately 6 to</p> <p>15 8 centimeters beyond the hymen?</p> <p>16 A. Correct. Because --</p> <p>17 Q. That's based on your finger</p> <p>18 approximation?</p> <p>19 A. Yes, ma'am.</p> <p>20 Q. Okay. And then below where</p> <p>21 you actually use the ruler, you put a</p> <p>22 six?</p> <p>23 A. And that is a typo because</p> <p>24 the total vaginal length is longer than</p>

<p style="text-align: right;">Page 326</p> <p>1 the actual point C.</p> <p>2 Q. And you're basing that on</p> <p>3 your memory, not something that you have</p> <p>4 written down. You're basing that on your</p> <p>5 memory of what happened?</p> <p>6 A. Yes.</p> <p>7 Q. Okay. Because you didn't</p> <p>8 record that measurement somewhere?</p> <p>9 A. Well, yes. I said eight</p> <p>10 here on bimanual exam.</p> <p>11 Q. Right. You said</p> <p>12 approximately six to eight when you used</p> <p>13 your glove which was not marked?</p> <p>14 A. Where it wasn't tender until</p> <p>15 approximately 6 to 8 centimeters.</p> <p>16 Q. Using your fingers inserted</p> <p>17 in a glove which was not marked with the</p> <p>18 centimeter measurements?</p> <p>19 A. Right, but my fingers are</p> <p>20 longer than 6 centimeters.</p> <p>21 Q. Right. But you didn't mark</p> <p>22 on your glove somewhere exactly where it</p> <p>23 was, did you?</p> <p>24 A. No, but it might have even</p>	<p style="text-align: right;">Page 328</p> <p>1 A. Thank you.</p> <p>2 Q. Hang on a second. I was</p> <p>3 organized a few hours ago.</p> <p>4 MS. BALDWIN: So let's mark</p> <p>5 this as Exhibit -- Exhibit-17.</p> <p>6 (Whereupon, a document was</p> <p>7 marked for identification as</p> <p>8 Drolet Exhibit No. 17.)</p> <p>9 MS. BALDWIN: Matt, do you</p> <p>10 want one to look at?</p> <p>11 MR. MORIARTY: Sure.</p> <p>12 BY MS. BALDWIN:</p> <p>13 Q. So this is the typed report</p> <p>14 that you did following the exam, correct?</p> <p>15 A. That is correct.</p> <p>16 Q. After you made these notes</p> <p>17 on the previous exhibit?</p> <p>18 A. Yes.</p> <p>19 Q. Okay. So if we go to this</p> <p>20 one and we go to the very bottom</p> <p>21 paragraph of the first page, we have</p> <p>22 speculum insertion and bimanual</p> <p>23 examination respecting the normal vaginal</p> <p>24 axis along the --</p>
<p style="text-align: right;">Page 327</p> <p>1 been more than eight as far as</p> <p>2 tenderness, but no. That's why I put six</p> <p>3 to eight.</p> <p>4 Q. That's why you put</p> <p>5 approximately six to eight, right?</p> <p>6 A. That is correct. That's</p> <p>7 what I put in in the bimanual midline</p> <p>8 exam.</p> <p>9 Q. Right. And then when you</p> <p>10 used the ruler, the number that you typed</p> <p>11 in was 6 centimeters, correct?</p> <p>12 A. Yes. And I just said this</p> <p>13 is a typo here.</p> <p>14 Q. Did you type this at the</p> <p>15 time you were doing the exam or just</p> <p>16 after?</p> <p>17 A. I started right after under</p> <p>18 the watchful eye of Dr. Dagostino while</p> <p>19 Mrs. Hammons was getting dressed and</p> <p>20 going to the bathroom.</p> <p>21 Q. And then if we go to the</p> <p>22 typed report that you authored about the</p> <p>23 exam, I can get you a copy of that. Hang</p> <p>24 on a minute.</p>	<p style="text-align: right;">Page 329</p> <p>1 A. Where are you? I'm so</p> <p>2 sorry.</p> <p>3 Q. That's okay. Last</p> <p>4 paragraph.</p> <p>5 MR. MORIARTY: Of the first</p> <p>6 page?</p> <p>7 MS. BALDWIN: First page,</p> <p>8 yes.</p> <p>9 THE WITNESS: Okay.</p> <p>10 BY MS. BALDWIN:</p> <p>11 Q. Got there?</p> <p>12 A. Yes. I...</p> <p>13 Q. Okay. Speculum insertion</p> <p>14 and bimanual examination respecting the</p> <p>15 normal vaginal axis along the ATFP is</p> <p>16 nontender up to approximately 8</p> <p>17 centimeters above the hymen, parens,</p> <p>18 deeper than the apex.</p> <p>19 Did I read that correctly?</p> <p>20 A. Correct.</p> <p>21 Q. And that's your</p> <p>22 approximation done with your glove</p> <p>23 measurement, correct?</p> <p>24 A. Yes and no. The speculum</p>

<p style="text-align: right;">Page 330</p> <p>1 went in easily up to 8 centimeters.</p> <p>2 Q. Okay. And then you said:</p> <p>3 Her true apex is difficult to precisely</p> <p>4 ascertain as there is a posterior</p> <p>5 deviation of the upper posterior vaginal</p> <p>6 wall, 6 centimeters above the hymen,</p> <p>7 associated with scar tissue and pain to</p> <p>8 the touch of that specific area.</p> <p>9 Did I read that correctly?</p> <p>10 A. You read that correctly.</p> <p>11 Q. So she has pain to the touch</p> <p>12 6 centimeters above the hymen?</p> <p>13 A. Posteriorly.</p> <p>14 Q. Okay.</p> <p>15 A. Yes.</p> <p>16 Q. And I think I asked you</p> <p>17 this, but I think we got off topic.</p> <p>18 Forgive me if I've already asked you, and</p> <p>19 I don't recall.</p> <p>20 Do you know how much the</p> <p>21 hysterectomy actually shrunk Ms. Hammons'</p> <p>22 vagina, if at all?</p> <p>23 A. We don't know because we</p> <p>24 don't have a measurement of Mrs. Hammons'</p>	<p style="text-align: right;">Page 332</p> <p>1 anterior Prolift?</p> <p>2 A. From any surgery, yeah.</p> <p>3 That's possible.</p> <p>4 Q. Okay. So you can't give an</p> <p>5 opinion to a reasonable degree of medical</p> <p>6 certainty which of Ms. Hammons' pelvic</p> <p>7 surgeries, if any, shortened her vagina?</p> <p>8 MR. MORIARTY: Objection.</p> <p>9 Go ahead.</p> <p>10 A. I think in centimeters or</p> <p>11 millimeters, that would be a correct</p> <p>12 assumption.</p> <p>13 Q. By the way, there's nothing</p> <p>14 in the Prolift labeling that warns of the</p> <p>15 risk of a reduction in the size of a</p> <p>16 vagina from a Prolift implant, correct?</p> <p>17 A. I'd have to relook, and I</p> <p>18 don't specifically recall this second.</p> <p>19 Q. If Ethicon was aware that</p> <p>20 the mesh contraction with the Prolift</p> <p>21 could create an increased risk of a</p> <p>22 shrunken vagina more so than the risks</p> <p>23 faced by other pelvic surgeries, then</p> <p>24 Ethicon had a duty to warn about that</p>
<p style="text-align: right;">Page 331</p> <p>1 vagina before, after Dr. Baker's surgery,</p> <p>2 after -- before Dr. Lackey's surgery,</p> <p>3 after Dr. Lackey's enterocele and</p> <p>4 rectocele repair, and we don't have any</p> <p>5 measurements, you know.</p> <p>6 Q. So, similarly, you can't</p> <p>7 tell me how much specifically Dr.</p> <p>8 Lackey's surgery, the posterior repair,</p> <p>9 shrunk her vagina, if at all?</p> <p>10 A. I can't tell you</p> <p>11 specifically. You are correct.</p> <p>12 Q. Right. So you also couldn't</p> <p>13 say how much the anterior Prolift shrunk</p> <p>14 her vagina?</p> <p>15 A. Well, now that it's removed,</p> <p>16 it might not have shortened it at all.</p> <p>17 The anterior Prolift has not been</p> <p>18 described, from what I read from this</p> <p>19 reliance list, that it causes significant</p> <p>20 shortening of the vagina.</p> <p>21 Q. Do you know -- I just want</p> <p>22 to clarify that.</p> <p>23 Do you believe there's a</p> <p>24 risk of vaginal shortening from the</p>	<p style="text-align: right;">Page 333</p> <p>1 risk, correct?</p> <p>2 MR. MORIARTY: Objection.</p> <p>3 A. I would have wanted Ethicon</p> <p>4 to let us know if they were aware of</p> <p>5 these clinical significant factors.</p> <p>6 Q. Right.</p> <p>7 A. If they were.</p> <p>8 Q. If Ethicon had knowledge of</p> <p>9 clinically significant risk factors that</p> <p>10 were different or greater than the</p> <p>11 severity, frequency or treatability of</p> <p>12 the known risks of other pelvic</p> <p>13 surgeries, you would have wanted to know</p> <p>14 that, correct?</p> <p>15 MR. MORIARTY: Objection.</p> <p>16 Asked and answered many times. Go</p> <p>17 ahead.</p> <p>18 A. If they were clinically more</p> <p>19 significant, yes.</p> <p>20 Q. Ms. Hammons never complained</p> <p>21 of pain with intercourse prior to her</p> <p>22 Prolift implant, correct?</p> <p>23 A. And her vaginal</p> <p>24 hysterectomy, that is correct. That we</p>

<p style="text-align: right;">Page 334</p> <p>1 know of.</p> <p>2 Q. She never complained of pain</p> <p>3 associated with vaginal atrophy prior to</p> <p>4 Dr. Baker's surgery in May of 2009?</p> <p>5 MR. MORIARTY: Objection.</p> <p>6 A. I don't know if she was</p> <p>7 aware if she had vaginal atrophy. So</p> <p>8 pain with sex, she did not complain of</p> <p>9 it.</p> <p>10 Q. Do you have any opinion that</p> <p>11 Ms. Hammons' back pain or problems with</p> <p>12 her back is somehow related to her</p> <p>13 current pelvic complaints?</p> <p>14 A. Well, one, she doesn't have</p> <p>15 general pelvic complaints.</p> <p>16 Q. Well, her dyspareunia?</p> <p>17 A. She has pain with</p> <p>18 intercourse, yes.</p> <p>19 Q. Do you believe that's at all</p> <p>20 related or do you intend to offer an</p> <p>21 opinion that that's related to her back</p> <p>22 pain?</p> <p>23 A. I think there is a -- there</p> <p>24 may be an association with sacroiliac</p>	<p style="text-align: right;">Page 336</p> <p>1 Q. Do you intend to offer any</p> <p>2 opinion that Ms. Hammons' problems with</p> <p>3 her hip pain are related to her current</p> <p>4 complaints of dyspareunia?</p> <p>5 A. Not directly related.</p> <p>6 Q. When you say not directly,</p> <p>7 what do you mean by that?</p> <p>8 A. Well, when you throw off a</p> <p>9 joint that affects your posture, she is</p> <p>10 walking with a cane. That can throw off</p> <p>11 your pelvic floor ligaments and muscles</p> <p>12 and cause levator ani muscle tenderness.</p> <p>13 It's a very intricate relationship</p> <p>14 between the back, the nerves, the pelvic</p> <p>15 floor muscles and pain.</p> <p>16 Q. The back, the knees and the</p> <p>17 hips were not causing her to suffer from</p> <p>18 dyspareunia up until the time she had her</p> <p>19 surgery by Dr. Baker in May of 2009,</p> <p>20 correct?</p> <p>21 A. That is correct. At that</p> <p>22 time it didn't appear so.</p> <p>23 Q. If Ms. Hammons did not have</p> <p>24 the anterior Prolift put in, she never</p>
<p style="text-align: right;">Page 335</p> <p>1 joint dysfunction and levator ani</p> <p>2 myorrhaphy -- or, pardon me, levator ani</p> <p>3 tenderness that can contribute to</p> <p>4 dyspareunia, but, again, I would have to</p> <p>5 be able to ask her where it hurt when she</p> <p>6 and her partner would have intercourse in</p> <p>7 order to figure out the etiology of the</p> <p>8 pain.</p> <p>9 Q. She never had complaints of</p> <p>10 dyspareunia before May of 2009, Dr.</p> <p>11 Baker's surgery, but she did have known</p> <p>12 problems with her back pain at that time,</p> <p>13 correct?</p> <p>14 A. Yes. She did have known</p> <p>15 back pain at that time.</p> <p>16 Q. And no complaints of</p> <p>17 dyspareunia at that time?</p> <p>18 A. Not at that time but things</p> <p>19 evolve.</p> <p>20 Q. Do you intend to offer any</p> <p>21 opinion that Ms. Hammons' current</p> <p>22 complaints of dyspareunia are related to</p> <p>23 her knee problems?</p> <p>24 A. Not directly.</p>	<p style="text-align: right;">Page 337</p> <p>1 would have had to have a removal of the</p> <p>2 Prolift by Dr. Heit in 2012, correct?</p> <p>3 A. That is correct. If she</p> <p>4 didn't have it in, she didn't need to</p> <p>5 have it out.</p> <p>6 Q. If Ms. Hammons had not had</p> <p>7 the Prolift put in in May of 2009 by Dr.</p> <p>8 Baker, Dr. Heit would not have put the</p> <p>9 holes in her bladder in 2012 when he</p> <p>10 removed the mesh, correct?</p> <p>11 A. If he had not...</p> <p>12 Q. If she never had the mesh?</p> <p>13 A. If she had never had the</p> <p>14 mesh.</p> <p>15 Q. She never would have had the</p> <p>16 holes in her bladder?</p> <p>17 A. By Dr. Heit, probably not.</p> <p>18 Q. Do you believe that Dr.</p> <p>19 Baker put holes in her bladder?</p> <p>20 A. I don't think so. He didn't</p> <p>21 put a direct hole in it.</p> <p>22 Q. Do you believe that Dr.</p> <p>23 Lackey put holes in her bladder?</p> <p>24 A. No.</p>

<p style="text-align: right;">Page 338</p> <p>1 MR. MORIARTY: When it's 2 convenient, I'd like to take a 3 couple minute break. 4 MS. BALDWIN: Sure. We can 5 do it now. 6 THE VIDEOGRAPHER: The time 7 is now 4:19, and we are going off 8 camera. 9 (A short break was taken.) 10 THE VIDEOGRAPHER: The time 11 is now 4:29, and we are back on 12 camera. 13 MR. MORIARTY: What time did 14 we go off? 15 BY MS. BALDWIN: 16 Q. Doctor, did you rely on any 17 literature evidence about the safety of 18 or efficacy of TVT devices or other 19 stress urinary incontinence devices in 20 forming your opinions in this case? 21 A. Not particularly. 22 Q. Do you agree that randomized 23 controlled trials are the gold standard 24 for clinical studies?</p>	<p style="text-align: right;">Page 340</p> <p>1 A. I don't know what the FDA 2 requires or not before launching things 3 on the market so... 4 Q. You don't have any opinion 5 in that regard about what studies should 6 have been done when it was released onto 7 the market? 8 A. Would a randomized 9 controlled study -- would I wish that a 10 randomized controlled study had been 11 done? Yes. 12 MS. BALDWIN: Doctor, I 13 don't have any other questions for 14 you. Thank you. 15 MR. MORIARTY: I have a 16 couple. 17 MS. BALDWIN: Go ahead. 18 MR. MORIARTY: Can I have 19 the exhibit with the drawing, 20 because that's the only exhibit I 21 haven't seen. 22 MS. BALDWIN: I have an 23 extra copy if you need one. 24 MR. MORIARTY: Yeah, but she</p>
<p style="text-align: right;">Page 339</p> <p>1 MR. MORIARTY: Objection. 2 Go ahead. 3 A. I think for certain things, 4 medical treatments, randomized controlled 5 trials are the best but not for all. 6 Q. What about for medical 7 devices? 8 A. Since I am not a 9 statistician, I wouldn't be able to say 10 to a hundred percent medical certainty 11 that the random -- a randomized 12 controlled study would be a gold 13 standard. 14 Q. Do you know that the Prolift 15 was released onto the market without any 16 randomized controlled trials? 17 A. I do believe that it was a 18 cohort study. 19 Q. Should Ethicon have done 20 randomized controlled trials on the 21 Prolift before launching it onto the 22 market? 23 MR. MORIARTY: Objection. 24 Go ahead.</p>	<p style="text-align: right;">Page 341</p> <p>1 only drew on this one. 2 MS. BALDWIN: Okay. 3 MR. MORIARTY: And it's 4 going to copy very poorly, I can 5 tell. 6 * * * 7 EXAMINATION 8 BY MR. MORIARTY: 9 Q. Doctor, I just have a couple 10 things. Within the last week did you 11 check the financial records of your 12 practice to see whether you ever got paid 13 for work done under any of the Ethicon 14 consulting contracts that Ms. Baldwin 15 asked you about? 16 A. Yes. 17 Q. And were there payments 18 beyond the \$2,000 fee that you thought 19 was for one proctor in the facility? 20 A. For consultant fee, no. 21 Q. Okay. Anything other than 22 the proctor fee and small expense 23 reimbursements for going to Baltimore or 24 Allentown?</p>

<p style="text-align: right;">Page 342</p> <p>1 A. Correct.</p> <p>2 Q. So there were no more?</p> <p>3 A. No more.</p> <p>4 Q. Okay. Do you know anything</p> <p>5 about what these company documents are</p> <p>6 that reflect these higher amounts?</p> <p>7 A. No, I do not.</p> <p>8 Q. Ms. Baldwin asked you some</p> <p>9 questions about severity, frequency,</p> <p>10 treatability, things of that nature. Do</p> <p>11 you remember those questions?</p> <p>12 A. There were so many asked in</p> <p>13 so many forms.</p> <p>14 Q. All right. Do you as a</p> <p>15 urogynecologist or obstetrician and</p> <p>16 gynecologist typically get that kind of</p> <p>17 information from the IFU or from the</p> <p>18 periodic medical literature?</p> <p>19 MS. BALDWIN: Objection to</p> <p>20 the form.</p> <p>21 A. Mostly from the medical</p> <p>22 literature.</p> <p>23 Q. Do you know -- let me ask</p> <p>24 that a different way.</p>	<p style="text-align: right;">Page 344</p> <p>1 Q. The midurethral slings, when</p> <p>2 they come out of the box, don't have an</p> <p>3 IFU?</p> <p>4 A. Not the box we have.</p> <p>5 Q. Okay.</p> <p>6 A. I've never seen --</p> <p>7 Q. Do you have experience in</p> <p>8 putting in other medical devices besides,</p> <p>9 like, Gynemesh PS, Restorelle, Prolift</p> <p>10 and midurethral slings?</p> <p>11 A. Yes.</p> <p>12 Q. All right. So have you had</p> <p>13 experience in your career reading the</p> <p>14 instructions for use that come with the</p> <p>15 products?</p> <p>16 A. Yes, I have.</p> <p>17 Q. All right. And do you have</p> <p>18 experience in analyzing medical</p> <p>19 literature about the procedures that are</p> <p>20 associated with those medical devices?</p> <p>21 A. Yes.</p> <p>22 Q. And then do you draw from</p> <p>23 your own experience what the risks,</p> <p>24 possible risks, and complications of</p>
<p style="text-align: right;">Page 343</p> <p>1 If the clinical reports for</p> <p>2 either Gynemesh PS or Prolift were in the</p> <p>3 materials that you reviewed that's in</p> <p>4 these two brief -- or these suitcases and</p> <p>5 the one box, are they likely in your</p> <p>6 reliance list?</p> <p>7 A. If they were in that box, I</p> <p>8 would hope they'd be in that reliance</p> <p>9 list.</p> <p>10 Q. You just don't know if</p> <p>11 sitting here today whether you reviewed</p> <p>12 what were termed clinical reports?</p> <p>13 MS. BALDWIN: Objection to</p> <p>14 the form.</p> <p>15 A. What the title of it was, I</p> <p>16 agree. I can't to a hundred percent</p> <p>17 certainty. There are two suitcases and a</p> <p>18 box of documents there.</p> <p>19 Q. Have you -- do you perform</p> <p>20 midurethral sling procedures?</p> <p>21 A. Yes, I do.</p> <p>22 Q. Do those come with IFUs?</p> <p>23 Instructions for use?</p> <p>24 A. No, they do not.</p>	<p style="text-align: right;">Page 345</p> <p>1 particular procedures are?</p> <p>2 A. From my own experience, plus</p> <p>3 the literature, plus whatever information</p> <p>4 I can gather, but it's a combination of</p> <p>5 it all.</p> <p>6 Q. All right. So do you</p> <p>7 believe that you have some expertise in</p> <p>8 evaluating whether an IFU adequately</p> <p>9 conveys to you the clinical risks and</p> <p>10 complications of a procedure done with a</p> <p>11 medical device?</p> <p>12 MS. BALDWIN: Objection to</p> <p>13 form.</p> <p>14 A. Yes. I think that I would</p> <p>15 be able to see if something was adequate.</p> <p>16 Q. I want to ask you about</p> <p>17 apical repair. Were you taught about</p> <p>18 apical repair in your residency?</p> <p>19 A. Yes.</p> <p>20 Q. Do you believe, to the best</p> <p>21 of your knowledge, that that is a typical</p> <p>22 part of an obstetric and gynecologic</p> <p>23 residency?</p> <p>24 MS. BALDWIN: Objection to</p>

<p style="text-align: right;">Page 346</p> <p>1 form. Time? When?</p> <p>2 Q. The early 2000s.</p> <p>3 A. Yes.</p> <p>4 Q. Or the 1990s?</p> <p>5 A. Well, 'til '94 for me.</p> <p>6 Q. So do you believe that the</p> <p>7 roll of and need for apical repair was</p> <p>8 well-known to the gynecologic community</p> <p>9 before 2009?</p> <p>10 MS. BALDWIN: Objection to</p> <p>11 form.</p> <p>12 A. Yes, I do.</p> <p>13 Q. Do you believe that by 2009,</p> <p>14 reasonable, prudent gynecologic surgeons,</p> <p>15 whether through their training, the</p> <p>16 medical literature or continuing medical</p> <p>17 education, would have been aware of the</p> <p>18 need to repair an apex when a patient had</p> <p>19 a uterine or vaginal vault prolapse?</p> <p>20 MS. BALDWIN: Objection to</p> <p>21 form.</p> <p>22 A. Depending on the degree of</p> <p>23 descent, yes.</p> <p>24 Q. Do you believe that</p>	<p style="text-align: right;">Page 348</p> <p>1 MS. BALDWIN: Yeah. I'm</p> <p>2 sorry. What page again?</p> <p>3 MR. MORIARTY: .29.</p> <p>4 MS. BALDWIN: Thank you.</p> <p>5 BY MR. MORIARTY:</p> <p>6 Q. Do you see, Doctor, in the</p> <p>7 total repair in the absence of a</p> <p>8 posterior defect, anterior/apical repair,</p> <p>9 do you see that section on that page?</p> <p>10 A. Yes. Yes.</p> <p>11 Q. And then you have the next</p> <p>12 section is called anterior repair with</p> <p>13 hysterectomy. Do you see that?</p> <p>14 A. Yes, I do.</p> <p>15 Q. Okay. So go two little</p> <p>16 paragraphs above anterior repair with</p> <p>17 hysterectomy. Does it say: The</p> <p>18 suspension of the uterus, in cases of</p> <p>19 uterine preservation, or the vaginal</p> <p>20 vault, in cases of concomitant or</p> <p>21 previous hysterectomy, relies on the</p> <p>22 posterior segment of the total implant.</p> <p>23 Do you see that?</p> <p>24 MS. BALDWIN: Objection to</p>
<p style="text-align: right;">Page 347</p> <p>1 reasonable, prudent gynecologic surgeons</p> <p>2 like those I just described would need a</p> <p>3 medical device company to explain the</p> <p>4 need for apical repair to them for an IFU</p> <p>5 or any other material?</p> <p>6 A. No. I didn't -- wouldn't</p> <p>7 expect that.</p> <p>8 Q. I'd like you to look at</p> <p>9 Exhibit-13, please.</p> <p>10 MS. BALDWIN: Matt, could</p> <p>11 you just tell me what that is?</p> <p>12 MR. MORIARTY: Yeah. That's</p> <p>13 the surgeon's resource monograph.</p> <p>14 MS. BALDWIN: Thank you.</p> <p>15 THE WITNESS: And may I turn</p> <p>16 the air off, please?</p> <p>17 MS. BALDWIN: Sure. Sure.</p> <p>18 BY MR. MORIARTY:</p> <p>19 Q. Exhibit-13, do you have it?</p> <p>20 A. Yes, I do.</p> <p>21 Q. I'd like you to go to this</p> <p>22 DX 10140.29, and I'd like you to go --</p> <p>23 MR. MORIARTY: Do you have</p> <p>24 it, Kila?</p>	<p style="text-align: right;">Page 349</p> <p>1 form.</p> <p>2 A. Yes, I do.</p> <p>3 Q. Would a surgeon doing an</p> <p>4 anterior Prolift only know that there is</p> <p>5 no posterior segment involved?</p> <p>6 MS. BALDWIN: Objection to</p> <p>7 form.</p> <p>8 Q. Posterior segment of an</p> <p>9 implant involved?</p> <p>10 A. Can you repeat that</p> <p>11 question, please?</p> <p>12 Q. Sure. Would a surgeon</p> <p>13 know -- would a surgeon who's only doing</p> <p>14 an anterior Prolift know that there is no</p> <p>15 posterior segment of the total implant?</p> <p>16 A. If only using an anterior</p> <p>17 Prolift, there is no posterior implant</p> <p>18 associated with an anterior Prolift.</p> <p>19 Q. Okay. And would that mean</p> <p>20 that the surgeon would have to do a</p> <p>21 repair of the apex with some other device</p> <p>22 or technique?</p> <p>23 A. If there was an apical vault</p> <p>24 prolapse or uterine descent, yes.</p>

<p style="text-align: right;">Page 350</p> <p>1 MR. MORIARTY: That's all I 2 have. Oh, wait. I'm sorry. 3 That's not all I have. 4 MS. BALDWIN: Go ahead. 5 BY MR. MORIARTY: 6 Q. This Exhibit-16, I know it's 7 the only drawing we had available, but 8 does this accurately depict the situation 9 that Dr. Baker was faced with on May 10 9 -- I'm sorry, May 5, 2009? 11 A. Is that the day of the 12 surgery? 13 Q. Yeah. 14 MS. BALDWIN: Objection to 15 form. 16 A. Before or after? 17 Q. Either? 18 A. None of it. 19 Q. Okay. Were you just doing 20 the best you could with the only drawing 21 we had available today? 22 A. Yes, 'cause this says normal 23 pelvic anatomy. 24 Q. Okay.</p>	<p style="text-align: right;">Page 352</p> <p>1 us. I'm happy to pay the costs 2 associated with that. 3 MR. MORIARTY: Can we just 4 send you DVDs of what's in there? 5 MS. BALDWIN: Yeah, but I 6 need her handwritten copies. I 7 want to see her highlighted 8 handwritten copies. 9 MR. MORIARTY: Do you want 10 just want copies on the things on 11 which there is handwriting? 12 MS. BALDWIN: I'd like to 13 see it all to review because I 14 need to see what there's not and 15 what there is, if that makes 16 sense. 17 MR. MORIARTY: It does. 18 MS. BALDWIN: Again, it's 19 burdensome. 20 MR. MORIARTY: I'll tell 21 you, I spent several hours going 22 through it yesterday. There's a 23 substantial amount of material in 24 there on which there are no</p>
<p style="text-align: right;">Page 351</p> <p>1 A. With a uterus. 2 MR. MORIARTY: Thanks. 3 That's all. 4 MS. BALDWIN: I don't have 5 any other questions for you, 6 Doctor. 7 My question that I did want 8 to do on the record is that Lisa 9 Dagostino went through your file 10 and saw some notes on things but 11 couldn't go through all of it. 12 MR. MORIARTY: Time out. We 13 can go off the video. 14 MS. BALDWIN: We can go off 15 the video record for this. Sure. 16 THE VIDEOGRAPHER: The time 17 is now 4:43, and this concludes 18 DVD number 4 and the deposition. 19 MS. BALDWIN: What I'd like 20 to do then for the stenographic 21 record is mark your entire file as 22 Exhibit-18, and what I'd ask you 23 to do is have someone copy her 24 entire file and have it shipped to</p>	<p style="text-align: right;">Page 353</p> <p>1 highlighting and no writing. You 2 want it all? 3 MS. BALDWIN: Yes. 4 MR. MORIARTY: Okay. 5 MS. BALDWIN: If you want to 6 have it scanned as opposed to hard 7 copying and send it on DVD 8 scanned, that's fine. 9 MR. MORIARTY: I'm just 10 going to have to find a local 11 Kinkos and find out what the 12 project is going to entail, what 13 it's going to cost, and we'll get 14 you an estimate before we even do 15 it. 16 MS. BALDWIN: Okay. 17 MS. DAGOSTINO: Can we keep 18 her file sort of as in toto, and 19 if she gets anything else in the 20 course of this litigation that it 21 would be not added to this file 22 specifically. It would be kind of 23 kept separate. 24 MR. MORIARTY: I told you</p>

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1 what has been added, so we will
2 continue --
3 MS. DAGOSTINO: But from
4 this point forward.
5 MR. MORIARTY: Yeah. That's
6 all fine.
7 MS. BALDWIN: We can go off
8 the record.
9 (Deposition was concluded at
10 4:47 p.m.)
11
12
13
14
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Page 355

1 **C E R T I F I C A T E**
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3 I do hereby certify that I
4 am a Notary Public in good standing, that
5 the aforesaid testimony was taken before
6 me, pursuant to notice, at the time and
7 place indicated; that said deponent was
8 by me duly sworn to tell the truth, the
9 whole truth, and nothing but the truth;
10 that the testimony of said deponent was
11 correctly recorded in machine shorthand
12 by me and thereafter transcribed under my
13 supervision with computer-aided
14 transcription; that the deposition is a
15 true and correct record of the testimony
16 given by the witness; and that I am
17 neither of counsel nor kin to any party
18 in said action, nor interested in the
19 outcome thereof.
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Julie Drolet, M.D.

Page 358

1 ACKNOWLEDGMENT OF DEPONENT

2 I, _____, do
 3 hereby certify that I have read the
 4 foregoing pages, and that the same
 5 is a correct transcription of the answers
 6 given by me to the questions therein
 7 propounded, except for the corrections or
 changes in form or substance, if any,
 noted in the attached Errata Sheet.

8 JULIE DROLET, M.D. DATE

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 15 Subscribed and sworn
 to before me this
 16 _____ day of _____, 20____.

17 My commission expires: _____

18 _____
 19 Notary Public
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Page 359

1 LAWYER'S NOTES

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